NOTE

This Microfiche meets the quality requirements of the American National Standard for Microfiche of Documents (ANSI PH5.9-1975). However, because of imperfections in the document from which it was made, it contains images that are illegible or difficult to read. The source document for this microfiche is the best copy that could be obtained prior to filming.

CIS Congressional Information Service, Inc
Washington, D.C.

99th Congress
1st Session

COMMITTEE PRINT

WMCP 99-11

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

WRITTEN COMMENTS ON CERTAIN TARIFF AND TRADE BILLS

SEPTEMBER 16, 1985

Prepared for the use of the Committee on Ways and Means by its staff

---

U.S. GOVERNMENT PRINTING OFFICE

50-969 O

WASHINGTON : 1985

COMMITTEE ON WAYS AND MEANS

DAN ROSTENKOWSKI, Illinois, *Chairman*

SAM M. GIBBONS, Florida
J.J. PICKLE, Texas
CHARLES B. RANGEL, New York
FORTNEY H. (PETE) STARK, California
JAMES R. JONES, Oklahoma
ANDY JACOBS, JR., Indiana
HAROLD FORD, Tennessee
ED JENKINS, Georgia
RICHARD A. GEPHARDT, Missouri
THOMAS J. DOWNEY, New York
CECIL (CEC) HEFTEL, Hawaii
WYCHE FOWLER, JR., Georgia
FRANK J. GUARINI, New Jersey
MARTY RUSSO, Illinois
DON J. PEASE, Ohio
ROBERT T. MATSUI, California
BERYL ANTHONY, JR., Arkansas
RONNIE G. FLIPPO, Alabama
BYRON L. DORGAN, North Dakota
BARBARA B. KENNELLY, Connecticut
BRIAN J. DONNELLY, Massachusetts
WILLIAM J. COYNE, Pennsylvania

JOHN J. DUNCAN, Tennessee
BILL ARCHER, Texas
GUY VANDER JAGT, Michigan
PHILIP M. CRANE, Illinois
BILL FRENZEL, Minnesota
RICHARD T. SCHULZE, Pennsylvania
BILL GRADISON, Ohio
W. HENSON MOORE, Louisiana
CARROLL A. CAMPBELL, JR., South Carolina
WILLIAM M. THOMAS, California
RAYMOND J. McGRATH, New York
HAL DAUB, Nebraska
JUDD GREGG, New Hampshire

JOSEPH K. DOWLEY, *Chief Counsel*
M. KENNETH BOWLER, *Deputy Chief of Staff*
ROBERT J. LEONARD, *Chief Tax Counsel*
A.L. SINGLETON, *Minority Chief of Staff*

SUBCOMMITTEE ON TRADE

SAM M. GIBBONS, Florida, *Chairman*

DAN ROSTENKOWSKI, Illinois
ED JENKINS, Georgia
THOMAS J. DOWNEY, New York
DON J. PEASE, Ohio
CECIL (CEC) HEFTEL, Hawaii
MARTY RUSSO, Illinois
RICHARD A. GEPHARDT, Missouri
FRANK J. GUARINI, New Jersey

PHILIP M. CRANE, Illinois
BILL ARCHER, Texas
GUY VANDER JAGT, Michigan
BILL FRENZEL, Minnesota
RICHARD T. SCHULZE, Pennsylvania

THE HONORABLE SAM M. GIBBONS (D., FLA.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES REQUEST FOR WRITTEN COMMENTS ON CERTAIN TARIFF AND TRADE BILLS

The Honorable Sam M. Gibbons (D., Fla.), Chairman of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee on Trade is requesting written testimony for the record from all interested parties on the miscellaneous tariff and trade bills listed below.

A determination regarding further scheduling of public hearings or other Subcommittee action on any of these bills will not be made until after the close of this public comment period.

The tariff and trade bills on which written testimony will be received are:

Duty Reduction Bills

H.R. 842 (Mr. Seiberling and Mr. Mineta): To reduce the rate of duty on certain polarizing material.

H.R. 1249 (Mr. de la Garza): Relating to the tariff treatment of fresh and concentrated grapefruit juice.

H.R. 1716 (Mr. Cobey and Mr. Vander Jagt): To lower for a 3-year period the duty on L-Ephedrine hydrochloride.

H.R. 2240 (Mr. Studds, et al): To amend the Tariff Schedules of the United States to provide for a lower rate of duty for certain fish netting and fish nets.

Duty Suspension Bills

H.R. 1265 (Mr. Campbell): To suspend temporarily the duty on dicyclohexylbenzothiazolesulfenamide.

H.R. 1417 (Ms. Kaptur): To extend the temporary suspension of duty on umbrella frames until January 1, 1990.

H.R. 1546 (Mr. Broyhill): To suspend for 3 years the duty on secondary butyl chloride.

H.R. 1547 (Mr. Broyhill): To extend for 5 years the existing temporary duty-free treatment of hosiery knitting machines.

H.R. 1734 (Mr. Jones of Okla.): To suspend temporarily the duty on 2,4 dichloro-5-sulfamoyl benzoic acid (also known as lasamid).

H.R. 1778 (Mr. Walgren): To suspend for 3 years the duty on 1,5 naphthalene diisocyanate.

H.R. 1849 (Mr. Broyhill): To extend for 5 years the existing temporary duty-free treatment of machines designed for heat-set, stretch texturing of continuous man-made fibers.

H.R. 2166 (Mr. Broyhill): To extend for 5 years the existing temporary duty-free treatment of double-headed latch needles. (Supersedes H.R. 1548.)

H.R. 2228 (Mr. Evans of Iowa): To extend for 3 years the existing suspension of duty on sulfapyridine.

H.R. 2238 (Mrs. Schneider): To extend for 5 years the existing suspension of duty on stuffed dolls, certain toy figures, and the skins thereof.

H.R. 2300 (Mr. Gephardt): To extend for 3 years the existing suspension of duty on triphenyl phosphate.

H.R. 2306 (Mr. Manton): To suspend for a three-year period the duty on certain specialty yarns used in the manufacture of wigs for dolls.

H.R. 2309 (Mr. Roe): To amend the Tariff Schedules of the United States to provide for the temporary suspension of the duty on nonbenzenoid vinyl acetate-vinyl chloride-ethylene terpolymer, containing by weight less than 50 percent derivatives of vinyl acetate.

H.R. 2310 (Mr. Schulze): To suspend for 3 years the duty on spinning, twisting, doubling, and other machines specially designed for wool.

H.R. 2311 (Mr. Schulze): To provide duty-free treatment for dicofol until January 1, 1991, after the existing duty reduction for that chemical expires on September 30, 1985.

H.R. 2312 (Mr. Schulze): To provide for the temporary suspension of the duty on 3,7-Bis(dimethylamino)-phenazathionium chloride (methylene blue) to be used as a process stabilizer in the manufacture of organic chemicals.

H.R. 2313 (Mr. Schulze and Mr. Bonker): To extend for an additional 3 years the existing suspension of duty on p-Hydroxybenzoic acid.

H.R. 2332 (Mr. Evans of Iowa): To suspend for 3 years the duty of P-sulfobenzoic acid, potassium salt.

H.R. 2333 (Mr. Evans of Iowa): To suspend for 3 years the duty on 3.5 dinitro-o-toluamide.

H.R. 2335 (Mr. Gradison and Mrs. Schneider): To suspend temporarily the duty on certain stuffed toy figures until December 31, 1990.

H.R. 2350 (Mr. Rostenkowski and Mr. Perkins): To suspend until the close of June 30, 1989, the duty on certain bicycle parts and to continue until that date the present treatment of bicycle component parts within foreign trade zones; and
H.R. 2298 (Mr. Duncan): To suspend until the close of June 30, 1989, the duty on certain bicycle parts.

H.R. 2351 (Mr. Rowland of Conn.): To suspend for three years the duty on 2,2'-oxamido bis-[ethyl 3-(3,5-di-tert-butyl-4-hydroxyphenyl)propionate].

H.R. 2352 (Mr. Rowland of Conn.): To amend the Tariff Schedules of the United States to suspend temporarily the duty on derivatives of N-[4-(2-hydroxy-3-phenoxypropoxy)phenlyl] acetamide.

H.R. 2360 (Mr. Flippo): To suspend temporarily the duty on tungsten ore.

H.R. 2474 (Mr. Duncan): To continue until the close of September 30, 1988, the existing suspension of duties on color couplers and coupler intermediates used in the manufacture of photographic sensitive material.

Duty-Free Bills

H.R. 1696 (Mr. Frenzel): To make permanent the existing temporary duty-free treatment for certain wools finer than 46s.

H.R. 1737 (Mr. Matsui): Relating to the tariff treatment of certain telescopes not designed for use with infra-red light.

H.R. 2075 (Mr. de la Garza): To make permanent the free rate of Customs duty on fresh cantaloupes imported at certain times, and for other purposes.

H.R. 2273 (Mr. Cooper): To make permanent the free rate of Customs duty on imported hatters' fur, and for other purposes.

H.R. 2301 (Mr. Glickman): To provide for the duty-free treatment for an organ for the use of Wichita State University, Wichita, Kansas.

H.R. 2347 (Mr. Mrazek): To extend duty-free treatment to certain plastic sheeting used as radiation shielding material.

Duty Increase Bills

H.R. 110 (Mr. Gilman, Mr. Vander Jagt, et al): To provide equitable treatment for certain fresh vegetables produced in the United States.

H.R. 209 (Mr. Roe): To return the ad valorem and specific duties on necktie imports to the levels in effect as of January 1, 1981, for a period of five years.

H.R. 705 (Mr. Schulze, Mr. Guarini, and Mr. Gregg): To increase for a 3-year period the duty on imported sheet vinyl flooring.

H.R. 838 (Mr. Schulze and Mr. Moakley): To amend the Tariff Schedules of the United States in order to establish equitable duty rates for waterbed mattresses, liners, and parts thereof.

H.R. 976 (Mr. Miller of Ohio, et al): To provide for the preservation of the ferroalloy industry in the United States.

H.R. 1262 (Mr. Anderson): To equalize the duties on imported tuna, whether or not packed in oil.

H.R. 1701 (Mr. Panetta): To amend the Tariff Schedules of the United States to provide for rates of duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations.

H.R. 1905 (Mr. Rahall, Mr. Flippo, Mr. Rangel, et al): To offset the competitive advantage which foreign coal producers have as a result of not having to meet environmental, health, welfare and safety requirements of the kinds imposed on U.S. coal producers, and for other purposes. (Also referred to Committee on Interior and Insular Affairs.) (Supersedes H.R. 422.)

H.R. 2226 (Mr. Boner of Tenn. and Mr. Towns): To amend the Tariff Schedules of the United States to provide for rates of duty on imported bicycles and bicycle parts consistent with those rates of duty maintained by the principal exporting nations of bicycles and bicycle parts to the United States, and for other purposes.

H.R. 2327 (Mr. Conte): To apply to imported machinery for making pulp, paper, or paperboard the same duty as the country of origin of that machinery applies to machinery of that kind that is a product of the United States and is exported to that country.

H.R. 2336 (Mr. Guarini, Mr. Jones of Okla., Mr. Vander Jagt, Mr. Russo, Mr. Schulze, and Mr. Gray of Ill.): To impose a duty on uranium hexafluoride (UF_6) imported from any country that requires the processing of uranium mined in that country into UF_6 before export.

H.R. 2354 (Mr. Anthony): To amend the Tariff Schedules of the United States with respect to motor fuel, motor fuel blending stock, and naphthas, and for other purposes.

Classification Bills

H.R. 2028 (Mr. Anthony, Mrs. Kennelly, and Mr. Rowland of Conn.): To render watches eligible for preferential treatment under title V of the Trade Act of 1974.

H.R. 2056 (Mr. Frank): Relating to the duty on certain knives (commonly known as snap blade tools) having movable blades.

H.R. 2186 (Mr. Vander Jagt): Relating to the tariff classifications of certain silicone resins and materials.

H.R. 2278 (Mr. Heftel of Hawaii): Relating to the tariff classification of salted and dried plums, and for other purposes.

H.R. 2303 (Mr. Henry): To create a separate tariff classification for imports of pigskin footwear.

H.R. 2324 (Mr. Bonker): To amend the Tariff Schedules of the United States to clarify the duty treatment of certain types of plywood.

H.R. 2338 (Mr. Jenkins): To amend schedule 3 of the Tariff Schedules of the United States. (Relating to woven fabrics of man-made fibers.)

H.R. 2341 (Mr. McCurdy and Mr. Jones of Okla.): Relating to the tariff treatment of imported martial arts uniforms.

H.R. 2349 (Mr. Rostenkowski): To amend the Tariff Schedules of the United States regarding the classification of television apparatus and parts thereof.

H.R. 2362 (Mr. MacKay, et al): To establish equal and equitable classification and duty rates for certain imported citrus products.

H.R. 2396 (Mr. Matsui): To change the tariff treatment with respect to naptha and motor fuel blending stocks.

Quantitative Restriction, Prohibition, and Embargo Bills

H.R. 431 (Mr. Roth, Mr. Duncan, Mr. McGrath, et al): To direct the President to impose certain limitations on the amount of milk protein products that may be imported into the United States.

H.R. 725 (Mr. Stark): To prohibit the importation into the United States of goods that are the products of countries that aid or abet acts of international terrorism against the person or property of United States citizens.

H.R. 821 (Mr. Mitchell of Md., Mr. Coyne, Mr. Rangel, et al): To prohibit the importation of South African krugerrands or other gold coins minted in South Africa or offered for sale by the Government of South Africa.

H.R. 997 (Mr. Dellums, Mr. Ford of Tenn., et al): To prohibit United States persons from making or holding any investment in South Africa, and for other purposes. (Also referred to Committees on Foreign Affairs and Public Works and Transportation.) (Sections 2 and 4 only.)

H.R. 1022 (Mr. Boucher, Mr. Heftel of Hawaii, et al): To amend the Agricultural Adjustment Act of 1938 to prohibit the importation of tobacco which has been grown or processed using pesticides and other chemicals whose use has been prohibited in this country for health reasons.

H.R. 1033 (Mr. Cheney and Mr. Loeffler): To prohibit the importation of certain products of Australia and New Zealand.

H.R. 1135 (Mr. Rangel, Mr. Matsui, et al): To amend the Tariff Schedules of the United States to prohibit the importation of coal and of certain articles of uranium, if the product of the Republic of South Africa or Namibia.

H.R. 1137 (Mr. Rogers): To impose restrictions on the quantity of foreign unmanufactured tobacco that may be imported into the United States.

H.R. 1256 (Mr. Pease, Mr. Heftel of Hawaii, et al): To prohibit the importation into the United States of benzidine, its salts, and benzidine-based products, and for other purposes. (Also referred to Committee on Energy and Commerce.)

H.R. 1629 (Mr. Rose, et al): To amend the Agricultural Act of 1949. (Relating to milk protein products.) (Also referred to Committee on Agriculture.)

H.R. 2158 (Mr. Marlenee, Mr. Thomas of Calif., et al): To prohibit the importation into the United States of beef, bananas, and sugar from Nicaragua until the President finds that the policies of the Government of Nicaragua regarding opposition to the democratic resistance forces and a free democratic form of government are consistent with its obligations under the terms of the Nicaraguan revolution and the promises made to the Organization of American States.

H.R. 2379 (Mr. Bedell): To amend the Federal Meat Inspection Act to prohibit the importation of live animals and meat products from countries having standards for the use of certain antibiotics in food-producing animals that are not as stringent as those of the United States, and for other purposes. (Also referred to Committees on Agriculture and Foreign Affairs.)

Customs and Other Nontariff Matters Bills

H.R. 839 (Mr. Schulze): Relating to the marking of containers of imported mushrooms.

H.R. 1004 (Mr. Pease, Mr. Coyne, et al): To amend the National Traffic and Motor Vehicle Safety Act of 1966 to establish procedures under which any person may petition for an investigation (including testing and inspection) regarding any automobile manufacturer's certification of compliance with vehicle safety standards, and to permit suspension of importation of vehicles pending the outcome of such investigation. (Also referred to Committee on Energy and Commerce.)

H.R. 1006 (Mr. Rinaldo, Mr. Campbell, Mr. Schulze, Mr. Duncan, et al): To amend the National Traffic and Motor Vehicle Safety Act of 1966 with respect to certain passenger motor vehicle safety requirements, and for other purposes. (Also referred to Committee on Energy and Commerce.)

H.R. 1218 (Mr. Heftel of Hawaii): Regarding the admission of certain fish into foreign trade zones in Hawaii.

H.R. 1566 (Mr. Leach of Iowa, Mr. Heftel of Hawaii, et al): To ensure payment of the additional duty imposed on ethyl alcohol used as a fuel or in making gasohol; and

H.R. 1567 (Mr. Leach of Iowa, Mr. Heftel of Hawaii, et al): To exclude from the Caribbean Basin Economic Recovery Act ethyl alcohol used for fuel which is merely distilled or denatured in a beneficiary country; and

H.R. 1720 (Mr. Durbin, Mr. Heftel of Hawaii, Mr. Gephardt, et al): To ensure payment of the regular duties imposed on imported ethyl alcohol and payment of the additional duty imposed on ethyl alcohol when imported for use in producing a mixture of gasoline and alcohol or used otherwise as fuel. (Combines substance of H.R. 1566 and H.R. 1567.)

H.R. 2029 (Mr. Anthony, Mrs. Kennelly, and Mr. Rowland of Conn.): To amend the Tariff Schedules of the United States in order to eliminate the special marking requirements for imported watches and clocks and components thereof.

H.R. 2225 (Mr. Blaz and Mr. Frenzel): Relating to the customs treatment of certain wearing apparel produced in the insular possessions of the United States.

H.R. 2259 (Mr. Frenzel): Relating to the establishment and disposition of customs districts and ports of entry, the provision of customs services on a reimbursable basis, and for other purposes.

H.R. 2334 (Mr. Frenzel): To amend the Tariff Act of 1930 to provide for an alternative drawback procedure.

H.R. 2381 (Mr. Carr): Relating to user fees for customs services at certain small airports.

H.R. 2382 (Mr. Chappie, et al): "The Beekeeper Preservation Act of 1985".

H.R. 2506 (Mr. Lent): To provide for waiver of the requirement that proof of actual use be furnished within three years after the date an article is entered, and for reliquidation of certain entries of tubular tin products.

DETAILS FOR SUBMISSION OF WRITTEN STATEMENTS

Persons submitting written statements should submit six (6) copies by the close of business Friday, June 28, 1985, to Joseph K. Dowley, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515.

Each written statement submitted to the Subcommittee for the record must contain the following information:

1. The name, full address, and capacity of the person submitting the statement (as well as a telephone number where he or his designated representative may be reached;

2. A list of any clients or persons, or any organization on whose behalf the statement is submitted; and

3. A topical outline or summary of the comments and recommendations in the statement.

* * * * * * * * * * *

CONTENTS

Page

Press release of Thursday, May 16, 1985, announcing request for written comments on certain tariff and trade bills III

H.R. 110:
- U.S. International Trade Commission 1
- U.S. Department of Commerce 14
- American Farm Bureau Federation, Paul A. Drazek, statement 14
- California Farm Bureau Federation, Henry J. Voss, statement 15

H.R. 209:
- U.S. International Trade Commission 19
- Amalgamated Clothing and Textile Workers Union, AFL-CIO, statement 24
- American Fiber, Textile, Apparel Coalition, G. Stewart Boswell, letter 25
- Manhattan Industries, Inc., Accessories Division, Herbert R. Aronson, letter 25
- Neckwear Association of America, Inc., statement 26

H.R. 431:
- U.S. International Trade Commission 29
- American Farm Bureau Federation, Paul A. Drazek, statement 14
- California Farm Bureau Federation, Henry J. Voss, statement 15
- New Zealand Milk Products, Inc., Edward J. Farrell, Broz & Farrell, statement 39

H.R. 705:
- U.S. International Trade Commission 42
- U.S. Department of Commerce 47
- Congoleum Corp., Resilient Flooring Division, Harry F. Pearson, statement 48

H.R. 725: U.S. International Trade Commission 50

H.R. 821: American Federation of Labor and Congress of Industrial Organizations, statement 52

H.R. 838:
- U.S. International Trade Commission 54
- U.S. Department of Commerce 58
- Intex Corp., Richard M. Belanger, Sharretts, Paley, Carter, Blauvelt, P.C., letter 58
- Waterbed Manufacturers Association, statement 60

H.R. 839:
- U.S. International Trade Commission 66
- American Mushroom Institute, statement 76
- California Farm Bureau Federation, Henry J. Voss, statement 15

H.R. 842:
- U.S. International Trade Commission 78
- U.S. Department of Commerce 83
- American Hoechst Corp., Film Division, Dale Stoeber, letter 83
- Hamlin, Inc., Ronald T. Ferguson, letter 84
- Polaroid Corp., Polarizer Division, Stewart Bennett, statement 84

H.R. 976:
- U.S. International Trade Commission 86
- U.S. Department of Commerce 107
- Advisory Committee of the Specialty Steel Industry of the United States, Paul R. Roedel, statement 108
- Almet, Inc., Stephen M. Creskoff, Ross & Hardies, letter 111
- Brazilian Association of Ferroalloy Producers, Royal Daniel III, Wald, Harkrader & Ross, letter 112

H.R. 976—Continued Page
Ferroalloys Association, George A. Watson, letter 121
Globe Metallurgical Inc., Thomas J. Manthey, Pickands Mather & Co., letter 122
International Minerals & Chemical Corp., I. David Paley, letter 122
Miller, Hon. Clarence E., a Representative in Congress from the State of Ohio, letter 123
H.R. 997: U.S. International Trade Commission 125
H.R. 1004: U.S. Department of Commerce 137
H.R. 1006: American International Automobile Dealers Association, Robert M. McElwaine, statement 139
H.R. 1022:
U.S. International Trade Commission 146
Cigar Association of America, Norman F. Sharp, statement 158
Leaf Tobacco Exporters Association, Inc., Hugh C. Kiger, letter 159
H.R. 1033:
U.S. International Trade Commission 166
U.S. Department of Treasury 191
U.S. Department of Agriculture 191
American Farm Bureau Federation, Paul A. Drazek, statement 14
Australian Meat and Live-stock Corp., Bryan Jay Yolles, statement 192
Meat Importers Council of America, Inc., William C. Morrison, statement. 196
H.R. 1135:
U.S. International Trade Commission 199
U.S. Department of State 225
U.S. Department of the Treasury 225
H.R. 1137:
U.S. Department of State 227
American Farm Bureau Federation, Paul A. Drazek, statement 14
Cigar Association of America, Norman F. Sharp, statement 227
Leaf Tobacco Exporters Association, Inc., Hugh C. Kiger, letter 231
H.R. 1218:
U.S. International Trade Commission 235
Hawaii, State of, Department of Planning and Economic Development, Kent M. Keith, statement 245
Valdez, Alaska, City of, statement 245
H.R. 1249:
U.S. International Trade Commission 250
Florida, State of, Department of Citrus, W. Bernard Lester; and Florida Citrus Processors Association, Clifford C. Beasley, Jr., joint letter and attachments 262
H.R. 1256:
U.S. International Trade Commission 266
U.S. Environmental Protection Agency 270
American Federation of Labor and Congress of Industrial Organizations, statement 52
Bofors Nobel, Inc., Ralph J. Wolthuis, letter 272
Celanese Corp., Robert T. Moffett, statement 272
Dry Color Manufacturers' Association, J. Lawrence Robinson, statement 274
Ecological & Toxicological Association of the Dyestuffs Manufacturing Industry, Eric A. Clarke, letter 278
Industrial Union Department, AFL-CIO, Howard D. Samuel, letter and attachments 279
H.R. 1262:
U.S. International Trade Commission 281
U.S. Department of Commerce 287
American Federation of Labor and Congress of Industrial Organizations, statement 52
Bumble Bee Seafoods, Inc., Patrick W. Rose, letter 288
Fishermen's Cooperative Association of San Pedro, Lawrence A. Bozanich, letter 288
Maritime Trades Department, AFL-CIO, Frank Drozak, letter 289
Pacific Marine Fisheries Commission, Lawrence D. Six, letter and enclosure 290
Pacific Seafood Processors Association, Denna J. Phelan for Robt. F. Morgan, letter 298
Ralston Purina Co., Van Camp Seafood Division, Bernard D. Fink, letter 298
Star-Kist Foods, Inc., Edward A. Ryan, statement 299

H.R. 1262—Continued Page
United States Tuna Foundation, David G. Burney, letter 303
H.R. 1265:
U.S. International Trade Commission 305
U.S. Department of Commerce 307
Michelin Tire Corp., Rene Zingraff, statement 307
Rubber Manufacturers Association, Donald G. Brotzman, statement 308
H.R. 1417:
U.S. International Trade Commission 309
U.S. Department of Commerce 312
Amalgamated Clothing & Textile Workers Union, AFL-CIO, statement 312
Kaptur, Hon. Marcy, a Representative in Congress from the State of Ohio, statement 313
Mespo Umbrellas, Ltd., Steven Wit, letter 313
H.R. 1546:
U.S. International Trade Commission 315
U.S. Department of Commerce 317
H.R. 1547:
U.S. Department of Commerce 319
National Association of Hosiery Manufacturers, Sid Smith, statement 319
H.R. 1566, H.R. 1567, H.R. 1720:
U.S. International Trade Commission (H.R.s 1566, 1567, 1720) 321
U.S. Department of Commerce (H.R. 1720) 338
A. E. Staley Manufacturing Co., W. Robert Schwandt, letter 339
Allied Ethanol & Fuel Corp. Ltd., Richard B. Berryman, Gabrielle G. Gallegos, and Alan Kashdan of Fried, Frank, Harris, Shriver & Jacobson, letter 340
American Farm Bureau Federation, John C. Datt, letter 343
American Petroleum Institute, Charles J. DiBona, letter 344
Ashland Oil, Inc., William E. Perrine, letter 348
Automated Petroleum Network, Bill McKnight, letter (identical letters from: C&R Distributing, Inc., Sam Roberson; Carse Oil Co., Wayne Atkinson; Chemical Fuels Corp., Donald G. Doiron; Crown Oil, David L. Miller; Dahlen Transport Co., S.J. Savat; Dalco Distributors, Inc., Jay M. Wilks; James N. Dubbs; Erickson Oil Producers, Thomas K. Nielsen; Fireline Petroleum Supply Distribution Co., Inc., John J. Ryan, Jr.; Flash Oil Corp., Christopher Nemph; Florida Hydrocarbon, John M. Riggs, Jr.; Gateway Petroleum Corp., Leslie P. Raul; Gillen Oil Co., Jerry Kohart; Samuel E. Gornte; Logan Coal & Supply Co., Inc., Edward H. Beaver, Inc.; Lynch Oil Co., Craig Lynch; Mankato Oil Co., Inc., Steven M. Freyberg; Minnesota Solvents & Chemicals Corp., A.G. Hale; Mr. M. Food Stores, David Metzger; Money Oil Co., Inc., Douglas L. Money; Money Saver Oil Co., Jack B. Bivins; Parsons Coal Co., Inc., David C. Heck, Sr.; Petroleum Trades Corp., Michael B. Himes; Pioneer Oil Co., R. Leon McDaniel; Q Petroleum Corp., James P. Hill; Quick Fill Corp., H.D. Lark; R.E. Owen Co., Richard E. Owen; Reeder Distributors, Inc., Gary M. Reeder; Rollins Oil Co., John E. Coffey; S&S Petroleum Sales, Inc., Steven Switzer; Seminole Petroleum Co., Inc., Jim W. Alfred; Simms Oil Corp., Tampa, FL; Southeast Petroleum Products, Inc., Charles R. Tidwell; Switzer Petroleum Products, Inc., E.W. Switzer; T&M Oil Co., Wayne L. Sherman; TAG Chemicals, Inc., Bernard F. Nachtman; United Petroleum, T.D. McRae; W.T. Harvey Oil Co., William T. Harvey; and Wilbanks Oil Co., F.G. Wilbanks) 349
Banco Popular de Puerto Rico, Hector Ledmesma, letter 350
Barbados, Embassy of, Ambassador Peter D. Laurie, letter (also signed by Ambassador Edmund H. Lake, Antigua and Barbuda; Francisco R. Galvez, Jr., Charge d'Affaires, Belize; Ambassador Frank Baron, Commonwealth of Dominica; Ambassador Carlos Despradel, Dominican Republic; Ambassador Albert O. Xavier, Grenada; Ambassador Adrien L. Raymond, Haiti; Ambassador Juan Agurcian Ewing, Honduras; Ambassador Keith Johnson, Jamaica; Ambassador Lawrence E. Chewning, Panama; Erstein Edwards, Charge d'Affaires, St. Christopher and Nevis; Ambassador Joseph Edsel Edmunds, St. Lucia; and Ambassador James O'Neil-Lewis, Trinidad and Tobago) 351
California Farm Bureau Federation, Henry J. Voss, statement 15
Caribbean Association of Industry and Commerce, P.A. Thompson, telegram 352

H.R. 1566, H.R. 1567, H.R. 1720—Continued Page
Carroll, R.W., Chickamauga, GA, letter forwarded by Congressman Durbin 352
Coalicion Costarricense de Iniciativas de Desarrollo, Harry Odio, letter 353
Coca-Cola Interamerican Corp., Heinz H. Huebner, letter 353
CPM Energy Corp., Barrett E. Kidner, statement 354
de Lugo, Hon. Ron, a Member of Congress from the Virgin Islands; Hon. Fofo I.F. Sunia, a Member of Congress from American Samoa; and Hon. Ben Blaz, a Member of Congress from Guam, joint statement 556
Dominica Coconut Products, Ltd., Phillip Nassief, telegram 355
Federacion Dominicana de Colonos Azucareros, Inc., Nicolas Casanovas, letter 355
Fermentation Engineering, Gordon M. Armstrong, letter 356
Granados, Juan A., Miami, FL, letter 356
Graybill Terminals Co., William Boehm, Jr., letter 357
Haiti Manufacturers Association (ADIH) Claude Levy, telegram 358
H.B. Fuller Co., Walter Kissling, telegram 358
Illinois Farm Bureau, John White, Jr., letter 358
Jamaica, Government of, Thomas B. Evans, Jr., O'Connor & Hannan, statement 359
Kentucky Agricultural Energy Corp., Jack N. Wade, letter 361
Marathon Petroleum Co., G.N. Nicholson, letter 363
McQuaid's Gas & Oil, Louis McQuaid, letter 364
Miami Free Zone Corp., German Leiva, letter 364
National Corn Growers Association, Michael L. Hall, letter 365
Nebraska Gasohol Committee, Todd C. Sneller, letter 366
Nebraska Wheat Board, Ervain J. Friehe, letter 367
New Energy Corp. of Indiana, Barry B. Direnfeld, letter 367
Ney Oil Co., Calvin Bergman, letter 369
Ohio Farm Bureau Federation, Inc., C. William Swank, letter 369
Panama, Republic of, Efrain E. Zanetti P., letter 370
Peerless Oil & Chemicals, Inc., Dennis J. Carey, statement 370
Petro Carbon Consulting Associates, Inc., Lloyd Vacovsky, letter 371
Ports Petroleum Co., Inc., William C. Ports, letter 373
RAJ Chemicals, Inc., statement 374
Renewable Fuels Association, Eric Vaughn, letter 376
Southland Corp. and CITGO Petroleum Corp., M.A. Johnson, joint statement 379
South Point Ethanol, Lauren L. Hill, letter 380
Sunshine-Jr. Stores, Inc., James C. Burkhalter, letter 383
Tesoro Gasoline Marketing Co., Frank L. Bellew, letter 383
Texas Alcohol Fuel Association, W. Allen Brazell, letter 384
Tropicana Petroleum Ltd., Richard B. Vind, letter and statement 385
Truck World, Inc., Robert E. Israel, letter 389
USA Petroleum Corp., John J. Moller, statement 390
Valley Green International Trading, Inc., Philip D. Carter, statement 391
West Energy Rural Resource Corp. (WERRCOR), Fred J. Weyh, letter 397
West Indies Committee, Sir George Bishop, Christopher Thornton, and David Jessop, telegram 397
H.R. 1629:
U.S. International Trade Commission 398
American Farm Bureau Federation, Paul A. Drazek, statement 14
California Farm Bureau Federation, Henry J. Voss, statement 15
H.R. 1696:
U.S. International Trade Commission 408
American Farm Bureau Federation, Paul A. Drazek, statement 14
American Textile Manufacturers Institute, Inc., Carlos Moore, letter 412
California Farm Bureau Federation, Henry J. Voss, statement 15
National Wool Growers Association, Daniel J. Murphy, statement 413
H.R. 1701:
U.S. International Trade Commission 414
U.S. Department of Agriculture 420
American Farm Bureau Federation, Paul A. Drazek, statement 14
Association of Floral Importers of Florida, Dwight Haight, statement 420
California Farm Bureau Federation, Henry J. Voss, statement 15
Florists' Transworld Delivery Association, Jimmy Williams, statement 421
Roses, Incorporated, James C. Krone and Eugene L. Stewart, statement 423
VISAFLOR, S.A., Leslie Alan Glick and Louis S. Mastriani, statement 428

	Page
H.R. 1716:	
U.S. Department of Commerce	432
Ganes Chemicals, Inc., Emil Gunthardt, letter	432
Knoll Fine Chemicals, Donald C. Alexander and Frederick P. Waite, statement	434
R.W. Greeff, & Co., Inc., Anthony E. D'Andrea, letter	436
H.R. 1720: (*see* H.R. 1566)	
H.R. 1734:	
U.S. International Trade Commission	437
U.S. Department of Commerce	439
American Hoechst Corp., Mark Edward Rogart, statement	439
Salsbury Laboratories, Inc., Clarus M. Galloway, statement	440
H.R. 1737:	
U.S. International Trade Commission	442
U.S. Department of Commerce	448
Bausch & Lomb, Inc., Randy D. Hoffman, letter	449
Bausch & Lomb, Inc., Stephen Kurzman, letter	449
Burris Co., Inc., Don J. Burris, letter	449
Leupold & Stevens, Inc., J.V. Slack, letter	450
H.R. 1778:	
U.S. International Trade Commission	451
U.S. Department of Commerce	453
Mobay Chemical Corp., Paul G. Gemeinhardt, statement	453
Uniroyal Chemical Division, Uniroyal, Inc., Andrew P. Vance and Matthew T. McGrath, statement	454
H.R. 1849:	
U.S. International Trade Commission	457
U.S. Department of Commerce	459
American Yarn Spinners Association, Inc., Jim H. Conner, letter enclosing statement of Association of Synthetic Yarn Manufacturers, Inc	460
Enterprise Machine & Development Corp., Samuel T. Price, letter	462
H.J. Theiler Corp., Southern Group, H. Peter Theiler, letter	462
H.R. 1905:	
U.S. Department of the Treasury	463
U.S. Department of Commerce	463
American Federation of Labor and Congress of Industrial Organizations, statement	52
Bethlehem Steel Corp., BethEnergy Mines, Inc., Robert M. McCann, statement	464
Electric Fuels Corp., Ernst A. Upmeyer III, letter and enclosures	466
Exxon Coal International, R.C. Kiddoo, letter and statement	469
Flippo, Hon. Ronnie G., a Representative in Congress from the State of Alabama, letter cosigned by Representatives Nick J. Rahall II, Ronald V. Dellums, Tom Bevill, Austin J. Murphy, Robert E. Wise, Douglas Applegate, James Weaver, Parren J. Mitchell, Alan B. Mollohan, Kenneth J. Gray, Joe Kolter, Don Young, Morris K. Udall, Robert A. Roe, Doug Walgren, Harley O. Staggers, Jr., Joseph M. Gaydos, Clarence E. Miller, Carl C. Perkins, Gus Savage, James L. Oberstar, Gus Yatron, and Charles A. Hayes	471
Lakeland Electric & Water, R.G. Siegel, letter	472
Mining and Reclamation Council of America, Daniel R. Gerkin, letter	473
New England Energy, Inc., Glen R. Schleede, letter and statement	475
Peabody Holding Co., Inc., Chris Farrand, letter	481
Sunbeam Coal Corp., William L. Harger, letter	481
United Mine Workers of America, statement	481
West Virginia Surface Mining and Reclamation Association, Benjamin C. Greene, letter	486
Western Virginia Resources, Ltd., Thomas W. May, letter	486
H.R. 2028, H.R. 2029:	
U.S. International Trade Commission	488
American Federation of Labor and Congress of Industrial Organizations, statement	52
American Watch Association, statement	551
Belair Quartz Inc., I. Grunwald, letter	555
Bulova Watch Co., Inc., Andrew H. Tisch, statement	555
de Lugo, Hon. Ron, a Member of Congress from the Virgin Islands; Hon. Fofo I.F. Sunia, a Member of Congress from American Samoa; and Hon. Ben Blaz, a Member of Congress from Guam, joint statement	556

H.R. 2028, H.R. 2029—Continued — Page
Helbros Watches Inc., Mark L. Kallan, letter ... 559
Longines-Wittnauer Watch Co., John L. Davis, letter ... 560
Lorus Products, Mortimer Gershman, letter ... 560
Progress Watch Co., Inc., Paul R. Sutter, letter ... 561
SPD Precision Inc., Milton H. Putterman, letter ... 562
Timex Corp., Ronald Marsching, statements ... 563
Unitime Industries, Inc., Kurt Schaller, letter ... 568
H.R. 2056:
U.S. International Trade Commission ... 569
U.S. Department of Commerce ... 576
Frank, Hon. Barney, a Representative in Congress from the State of Massachusetts, letter ... 576
H.R. 2075:
U.S. International Trade Commission ... 578
American Farm Bureau Federation, Paul A. Drazek, statement ... 14
California Farm Bureau Federation, Henry J. Voss, statement ... 15
Texas Citrus & Vegetable Import Association, Leonard Lehman, statement ... 584
United Fresh Fruit & Vegetable Association, Robert Colin Keeney, letter . 589
West Mexico Vegetable Distributors Association, Mike M. Masaoka and T. Albert Yamada, letter ... 590
H.R. 2158:
U.S. International Trade Commission ... 591
California Farm Bureau Federation, Henry J. Voss, statement ... 15
H.R. 2166:
U.S. International Trade Commission ... 614
U.S. Department of Commerce ... 617
National Association of Hosiery Manufacturers, Sid Smith, statement ... 319
Needle Industries (U.S.A.) Inc., Tove L. Mitchell, letter ... 617
H.R 2186:
U.S. International Trade Commission ... 618
General Electric Co., Silicones Products Division, and Dow Corning Corp., Freeman, Wasserman & Schneider, statement ... 624
Mobay Chemical Corp., P. G. Gemeinhardt, statement ... 627
H.R. 2225:
American Fiber, Textile, Apparel Coalition, G. Stewart Boswell, letter ... 630
de Lugo, Hon. Ron, a Member of Congress from the Virgin Islands; Hon. Fofo I.F. Sunia, a Member of Congress from American Samoa; and Hon. Ben Blaz, a Member of Congress from Guam, joint letter ... 556
Guam Chamber of Commerce, Eloise R. Baza, letter ... 631
National Knitwear & Sportswear Association, Seth M. Bodner, letter ... 631
Northern Mariana Islands, Commonwealth of, Froilan C. Tenorio, letters . 632
Sigallo-Pac Ltd., Siegel, Mandell & Davidson, statement ... 633
H.R. 2226:
U.S. International Trade Commission ... 637
U.S. Department of Commerce ... 654
A.T. Nault & Son, David M. Edmonds and Donald J. Nault, letter ... 655
Alameda Bicycle, Marjorie J. Riley, statement ... 656
American Retail Federation, William Kay Daines, letter ... 656
Bent's Schwinn Cyclery, Steven G. Bent, letter ... 657
Bicycle Manufacturers Association of America, Inc., statement ... 658
Bicycle Transit Authority, Inc., John C.N. Chapin, letter ... 661
Bicycle USA, Peggy Skonecki, statement ... 661
Bicycle Wholesale Distributors Association, Lewe B. Martin, statement ... 662
Campus Bike Shop, Inc., Wilbur D. Scott, letter ... 664
Chicago Area Bicycle Dealers Association, Pat Byron, letter ... 665
Cycle Parts and Accessories Association, Inc., Robert Auerbach, statement ... 666
Cycles Peugeot USA, Inc., Alexandre Sacerdoti, letter ... 672
Dia-Compe, Inc., Robert A. Clarke, letter ... 673
District Cycle Supply Co., Inc., Abraham Wolf, letter ... 673
Dracy, Sylvester W., Temple Bicycle Center and Killeen Bicycle Center, letter ... 674
Faulhaber Co., Richard D. Sanderson, letter ... 674
General Bicycle & Moped Co., Inc., Chet D. Ribner, letter ... 675
Glenn's Bicycle Shop, Glenn L. Houser, Jr., letter ... 676
Hillcrest Bike Shop, Adrian J. McDunn, letter ... 676

H.R. 2226—Continued	Page
Huffy Corp., Robert R. Wieland, statement	676
Hunt-Wilde Corp., W.L. Wilde, letter	678
Imperial Beach Schwinn, Thomas A. Gentilella, letter	679
Japan Bicycle Association, Bill Alberger, statement	680
Karim Cyclery, Adlai Karim, letter	680
Mission Cyclery, Inc., Alan E. Hood, letter	681
National Bicycle Dealers Association, Richard M. Olken, statement	681
Northwest Alabama Cyclery, Alvin Farrar, letter	682
Orange Cycle Works, Inc., Howard Larlee, letter	683
Peyton's Bikes, Inc., David Ham, letter	682
Raleigh Cycle Co. of America, James A. Baldo, letter	682
Raleigh Cycle Co. of America, Judy Montgomery, letter	682
Rodebike, Charles D. Rodenberger, statement	683
Royal Bike Shop, Mrs. L. Clay Anderson, letter	684
Royce-Union Co., H.R. Dietz, letter	685
Schwinn Bicycle Co., Jay C. Townley, statement	685
Sun Metal Products, Inc., Conrad R. Anderson, letter	689
Sunkyong International, Inc., Richard J. Currey, letter	690
Ten Speed Drive Imports, Inc., Thomas A. Eason, Jr., letter	690
Trek Bicycle Corp., Bevil J. Hogg, letter	690
VeloSport Imports, John C.N. Chapin, letter	692
Vespa of America Corp., Guido Foggini, letter	692
Vespa of America Corp., Diane P. Sheardown, letter	693
Wald Manufacturing Co., Inc., Carlton P. Pawsat, statement	693
West Coast Cycle, Sidney Dunofsky, letter	694
Westland Schwinn Cyclery, Inc., William T. and Arthur J. Barrett, letter	695
H.R. 2228:	
U.S. International Trade Commission	697
U.S. Department of Commerce	699
Salsbury Laboratories, Inc., Clarus M. Galloway, statement	440
H.R. 2238, H.R. 2335:	
U.S. International Trade Commission (H.R. 2238)	701
U.S. International Trade Commission (H.R. 2335)	707
U.S. Department of Commerce (H.R. 2238)	714
Ace Novelty Co., Inc., Benjamin H. Mayers, letter	715
Acme Premium Supply Corp., Robert V. Dawson, letter	715
Borg Textile Corp., M. A. Schuster, letter	715
C.&T. Toy Co., Tony Barone, letter	716
Coleco Industries, Inc., and MBI, Inc., Siegel, Mandell & Davidson, letter	716
Concession Management Corp., Maynard Ostrow, letter	718
Eden Toys, Inc., David A. Miller, letter	719
Etone International, Inc., Robert Elison, letter	719
Eugene Doll & Novelty Co., Inc., Robert J. Seidenberg, letter	720
Goldberger Doll Manufacturing Co., Inc., Lawrence Doppelt, letter	720
Gradison, Hon. Bill, a Representative in Congress from the State of Ohio, statement	721
Hallmark Cards, Inc., Rae Evans, letter	722
Hasbro, Inc., Steven L. Rodyn, statement	722
Horsman Dollas, Inc., Frank G. Rubury, letters	724
Hug-Um Toy Co., Inc., Harry Weinstain, statement	725
Kenner Products, Gary Kleven, letter	725
Lagoon Corp., John Freed, letter	726
M.&S. Shillman, Inc., Irv Shillman, letter	727
Middle Earth Toy Co., Harold Mudry, statement	727
Russ Berrie & Co., Inc., Joel K. Simon, Serko & Simon, letter	728
SCG Toy Co., Marshall White, letter	729
Tonka Corp., Joseph M. Joyce, letter	730
Toy Manufacturers of America, Douglas Thomson, letter	731
Trudy Corp., William W. Burnham, letter	732
Vicma, Inc., Karen Schumacher, letter	733
Wedges/Ledges of California, Inc., Stephen P. Shoemaker, Jr., letter	733
H.R. 2240:	
U.S. International Trade Commission	734
American Cordage & Twine Manufacturers, statement	741
American Fiber, Textile, Apparel Coalition, G. Stewart Boswell, letter	742
H.R. 2259:	
Quast & Co., Inc., Karl H. Quast, statement	743

H.R. 2259—Continued
Ridge, Hon. Tom, a Representative in Congress from the State of Pennsylvania, letter ..... Page 745
U.S. Great Lakes Shipping Association, Vera Paktor, statement 745
H.R. 2273:
U.S. International Trade Commission 748
U.S. Department of Commerce 754
Stratton Hats, Inc., Leonard Lehman, statement 755
H.R. 2278:
U.S. International Trade Commission 760
Jade Food Products, Inc., Hollis Ho, letter 764
Yick Lung Co., Inc.:
Douglas O.L. Yee, statement 765
Frederick K.S. Yee, Gertrude C. Yee, and Patricia Y. Ching, joint letter 765
H.R. 2298, H.R. 2350:
U.S. Department of Commerce (H.R. 2350) 768
American Cycle Systems, Inc., Charles W. Stephens, letter 768
American Federation of Labor and Congress of Industrial Organizations, statement 52
Bicycle Manufacturers Association of America, Inc., statement 769
Bicycle Wholesale Distributors Association, Lewe B. Martin, statement 772
Carlisle Tire & Rubber Co., John L. Kiehl, statement 774
Cycle Parts & Accessories Association, Inc., Robert Auerbach, statements 775
Huffy Corp., Robert R. Wieland, statements 783
National Association of Foreign-Trade Zones, Joseph F. O'Connor, statement 790
Roadmaster Corp., George C. Nebel, letter 791
Schwinn Bicycle Co., Brock R. Landry, letter 791
Signal Products Division, Amerace Corp., Ramon A. Martello, letter 791
Stewart-Warner Corp., Joseph J. English, letter 792
Sun Metal Products, Inc., Conrad R. Anderson, letter 792
United Steelworkers of America, AFL-CIO, CLC, John J. Sheehan, letter 793
Wald Manufacturing Co., Inc., Carlton P. Pawsat, statements 793
H.R. 2300:
U.S. International Trade Commission 799
U.S. Department of Commerce 801
H.R. 2301: No comments.
H.R. 2303: Wolverine World Wide, Inc., Thomas R. Gleason and Karen S. Holcomb, statement 802
H.R. 2306:
U.S. International Trade Commission 806
U.S. Department of Commerce 811
A.&B. Artistic Wig Corp., Richard M. Belanger, letter 812
H.R. 2309:
U.S. International Trade Commission 814
U.S. Department of Commerce 817
Pantasote, Inc., John E. Ertel, letter 817
H.R. 2310:
U.S. International Trade Commission 819
Northern Textile Association, statement 823
H.R. 2311:
U.S. International Trade Commission 825
Rohm & Haas Co., statement 827
H.R. 2312: Rohm & Haas Co., statement 832
H.R. 2313:
U.S. International Trade Commission 834
U.S. Department of Commerce 836
Dastech International, Inc., Robert Kahen, letter 837
Kalama Chemical, Inc., James H. Harris, statement 838
Kanematsu-Gosho Ltd., S. Tajiri, letter 839
Mobay Chemical Corp., P.G. Gemeinhardt, statement 839
Napp Chemicals, Inc., Holbrook Bugbee, letter 840
Torricelli, Robert G., a Representative in Congress from the State of New Jersey, letter 841
Wilson Dye & Chemical Distributors, Inc., James A. Wilson, letter 842
H.R. 2324:
U.S. International Trade Commission 843

H.R. 2324—Continued Page
American Hardboard Association, James E. Nolan, statement 850
American Plywood Association, statement 852
California Farm Bureau Federation, Henry J. Voss, statement 15
Canfor Ltd., George R. Tuttle, letter 858
Georgia-Pacific Corp., Thomas F. Mitchell, letter 860
MacMillan Bloedel, Inc., Building Materials Division, statement 861
National Forest Products Association, John Ward, statement 862
Peninsula Plywood Division, ITT Rayonier, Inc., Karl J. Alteneder, letter . 864
H.R. 2327:
U.S. International Trade Commission 865
U.S. Department of Commerce 871
Hercules, Inc., Ross Pulp & Paper Division, Thomas Giles, statement 872
J.M. Voith GmbH, Voith, Inc., and Voith-Morden, Inc, James N. Bierman, letter 873
S.W. Hooper Corp., A.W. Hooper, letter 874
Sinclair International, Martin O. Saltarelli, statement 874
TVW Paper Machines, Inc., letter and statement 875
Voith S/A Maquinas E. Equipamentos, James N. Bierman, letter 880
H.R. 2332:
Bofors Nobel, Inc., John Irwin Dugan, letter 881
Salsbury Laboratories, Inc., Clarus M. Galloway, statement 440
H.R. 2333:
U.S. International Trade Commission 882
U.S. Department of Commerce 884
Salsbury Laboratories, Inc., Clarus M. Galloway, statement 440
H.R. 2334: National Council on International Trade Documentation, W. Henry Parsons, statement 885
H.R. 2335: (*see* H.R. 2238)
H.R. 2336:
U.S. International Trade Commission 889
Allied Corp., Jerry Bishop, statement 895
Sequoyah Fuels Corp., R.P. Luke, letter 897
H.R. 2338:
U.S. Department of Commerce 899
American Textile Manufacturers Institute, Inc., Carlos Moore, letter 899
H.R. 2341:
U.S. International Trade Commission 901
U.S. Department of Commerce 911
Century Martial Art Supply, Gary Hestilow, statement 911
H.R. 2347:
U.S. International Trade Commission 913
U.S. Department of Commerce 915
H.R. 2349:
American Federation of Labor and Congress of Industrial Organizations, statement 52
Committee To Preserve American Color Television, statement 917
International Brotherhood of Electrical Workers, Charles H. Pillard, statement 921
Matsushita Industrial Co., statement 922
Nintendo of America, Inc., Gary C. Cooper, letter 933
Philips ECG, John Torre, letter 938
RCA Corp., Jack K. Sauter, statement 938
Sanyo Manufacturing Corp., Masahiko Iwasa, letter 939
Toshiba America, Inc., Robert H. Huey, Burton V. Wides, and Joseph E. Sandler, statement 939
Zenith Electronics Corp., Jerry K. Pearlman, statement 945
H.R. 2350: (*see* H.R. 2298)
H.R. 2351:
U.S. Department of Commerce 949
Uniroyal, Inc., Uniroyal Chemical Division, Matthew T. McGrath, statement 949
H.R. 2352:
U.S. International Trade Commission 951
U.S. Department of Commerce 954
Uniroyal, Inc., Uniroyal Chemical Division, Matthew T. McGrath, statement 955

	Page
H.R. 2354, H.R. 2396:	
U.S. International Trade Commission (H.R. 2354)	957
U.S. International Trade Commission (H.R. 2396)	969
U.S. Trade Representative	980
American Petroleum Institute, Charles J. DiBona, letter	344
Ashland Oil, Inc., William E. Perrine, letter	348
CPM Energy Corp., Barrett E. Kidner, statement	354
Dow Chemical Co., Matthew T. McGrath, statement	981
Empire State Petroleum Association, Inc., Leonard P. Steuart II, and Coalition of Independent Marketers, statements	982
Exxon Co., U.S.A., Robert J. Doyle, letter and statement	996
Independent Fuel Terminal Operators Association, statement	1000
Independent Refiners Coalition, Philip H. Potter, letter	1001
Oxbow Resources, Inc., Golden Gate Petroleum Co. and Euro-Caribbean Oil Corp., statement	1002
Petrol Plus of Naugatuck, Inc., Arthur Goldstein, letter	1008
Society of Independent Gasoline Marketers of America:	
William W. Scott, letter	1009
R. Timothy Columbus, letter	1015
Southland Corp. and CITGO Petroleum Corp., M.A. Johnson, statement	1015
Tosco Corp., Charles P. Eddy, letters	1017
Valero Energy Corp., W.E. Greehey, letter	1017
Valley Green International Trading Corp., Philip D. Carter, statement	391
H.R. 2360:	
U.S. International Trade Commission	1020
AMAX Metals Group, Alloy Division, Joseph B. Sutliff, letter	1024
H.R. 2362:	
U.S. International Trade Commission	1025
California Farm Bureau Federation, Henry J. Voss, statement	15
Florida Citrus Mutual, Bobby F. McKown, statement	1034
Florida, State of, Department of Citrus, W. Bernard Lester, and Florida Citrus Processors Association, Clifford C. Beasley, Jr., joint letter	1037
H.R. 2379:	
Australia Meat and Live-stock Corp., Bryan Jay Yolles, statement	192
California Farm Bureau Federation, Henry J. Voss, statement	15
Meat Importers Council of America, Inc., William C. Morrison, statement	196
H.R. 2381:	
Aircraft Owners and Pilots Association, John L. Baker, letter	1038
Oakland County, Michigan, Thomas J. Bulger, letter	1038
H.R. 2382:	
U.S. International Trade Commission	1040
A.H. Meyer & Sons, Inc., Irel H. Meyer, Jack W. Meyer, Sr., Jack W. Meyer, Jr., and Julio P. Diaz, letter	1045
Abnaki Farms, Maggie Warren and Bob Egan, letter	1048
Adee Honey Farms, Vernon H. Adee, letter	1048
American Beekeeping Federation, Inc., Frank A. Robinson, statement	1049
American Honey Producers Association, Inc.:	
Richard Adee, statement	1049
Robert V. Barnes, letter	1056
Anderson, Doyle and Leona, Chinook, MT, letter	1057
Barber, David E., Davisburg, MI, letter	1057
Beaverhead Honey Co., Earl G. Barnes, letter	1058
Beekeepers Association of Southern California, Dale E. Harris, Jr., letter	1059
Bees & By-lines, Joann Manes Olstrom, letter	1060
Bernard's Apiaries, Inc., James D. Bernard, letter	1061
Best Honey Farm, Oren Best, letter	1062
Blake, Richard E., Shenandoah, IA, statement	1062
Brown Honey Farms:	
Robert I. Brown, letter	1062
Jerry A. Brown, letter	1063
Byrne, Donald A., Falmouth, MI, letter	1063
C.M. Goettsche & Co., Inc., Carol M. Goettsche and Morgan J.D. Manley, letter	1064
California Farm Bureau Federation, Henry J. Voss, statement	15
Cary's Honey Co., Robert E. Cary, letter	1064
Chief Mtn. Honey Co., Robert Fullerton, letter	1065
Christian Honey Farm, Bill and Joyce Christian, statement	1065
Clayshulte, John K., Mesilla, NM, letter	1066

H.R. 2382—Continued Page
Cole, Jerry, Bosque Farms, NM, statement ... 1067
Dale, Kenneth C. and Marilyn J., Sanger, CA, letter ... 1068
Fore, Troy H., Jr., Jesup, GA, statement ... 1068
Getman, Robert E., Exeter, CA, letter ... 1069
Guernsey Meadows Apiaries, Les Philaja, letter ... 1069
H&J Honey Co., Richard S. Johansen ... 1070
Harrell & Sons, R.V. Harrell, statement ... 1070
Henkelman Honey, Francis C. Henkelman, letter ... 1071
Hofmann Apiaries, Chas. S. Hofmann, letter ... 1071
Homestead Apiaries, Bob Behlke, letter ... 1072
Hull, J. Dwight, Henning, MN, letter ... 1072
Hurd, Charles W., Kasota, MN, statement ... 1072
Indiana State Beekeepers Association, Alan L. King, statement ... 1073
Iowa Department of Agriculture, Glen L. Stanley, letter ... 1074
Johnson, Carl and Joan, Niles, IL, letter ... 1074
Johnston Honey Farms, Berna Johnston, statement ... 1075
Jolley, David, Lovell, WY, letter ... 1075
Ke-An Honey Co., Keith Taylor, letter ... 1075
Kerr's Honey & Pollination, David A. Kerr, letter ... 1076
Lane County Beekeepers Association, James Sheridan, letter ... 1077
Larimore, Floyd E. (and 37 others), Mounds, OK, letter ... 1077
Lucky W. Honey, Robert, L. Wells, letter ... 1077
Matthes, Walter, Pleasant Hill, MO, letter ... 1077
Merrimack Valley Apiaries, Inc., Andrew T. Card, Jr., letter ... 1078
Mid-West Apiaries, Mark Emde, letter ... 1078
Miller Honey Farms, Inc., Neil J. Miller, letter ... 1078
Minnesota Honey Producers Association, Stephen M. Klein, statement ... 1079
Mitchell Bros. Honey, Russell T. Mitchell, Norman D. Mitchell, and Bill Mitchell, letter ... 1080
Montana State Beekeepers Association, Jim Rodenberg, letter ... 1080
Moon Shine Trading Co., Ishai Zeldner, statement ... 1081
Moore, Kenneth, Marysville, OH, letter ... 1081
Muzikevik, Isabelle D., Manchester, CT, letter ... 1082
Nebraska Honey Producers Association, Howard Halbgewachs, statement ... 1082
Nebraska, State of, Marion Ellis, letter ... 1086
Oberton, Gary, Randall, NM, letter ... 1087
Oklahoma State Beekeeping Federation, F.E. Larimore, letter ... 1087
Parker, Mitchell, Jacksonville, FL, letter ... 1088
Petti, H. Martin, Santa Paula, CA, letter ... 1088
Ross, Jim, Minco, OK, statement ... 1089
Rufer's Apiaries, Darrel Johannes Rufer, statement ... 1089
Schmidt, Donald R., Winner, SD, statement ... 1090
Schmidt, Howard H., Winner, SD, statement ... 1091
Schram, Donovan R., Oxnard, CA, letter ... 1092
Shearman Apiaries, Lloyd B. (Bill) Shearman, Jr., letter ... 1093
Sioux Honey Association, Gary L. Evans, statement ... 1094
Smith, Gerald Allen, McMinnville, OR, letter ... 1095
Smith, James R., Yuma, AZ, statement ... 1096
South Dakota Beekeepers Association, Gary Schmidt, telegram ... 1096
Strachan Apiaries, Inc., Don Strachan, letter ... 1096
Strickler, E.W., Jr., Pascagoula, MS, statement ... 1097
Strickler Apiaries, Robert E. Strickler, statement ... 1097
Stroope Bee & Honey Co., Jerry Stroope, statement ... 1097
Valley Honey Association, Rick Krueger, statement ... 1098
Walkin, Robert W., Dent, MN, letter ... 1098
Waring, Wesley, Minneapolis, MN, statement ... 1099
Wildlife Habitat Charitable Trust, Garry L. Bales, statement ... 1099
Zeller, Clarence, Lovell, WY (identical letters were received from Gene B. Zeller and Von Zeller, Lovell, WY) ... 1101
Zeller, Sidney, Lovell, WY, letter ... 1101
H.R. 2396: (*see* H.R. 2354)
H.R. 2474:
U.S. Department of Commerce ... 1102
Biddle Sawyer Corp., Siegel, Mandell & Davidson, statement ... 1102
Bofors Nobel, Inc., John Irwin Dugan, letter ... 1103
ChemDesign Corp., Richard E.T. Brooks, letter ... 1103
Eastman Kodak Co., Tom Hiatt, letter ... 1106
H.R. 2506: U.S. International Trade Commission ... 1108

WRITTEN COMMENTS

This document contains agency reports that have been received up to the time of assembly for publication. The reports are followed by comments and statements from the public. In many instances, supporting documentation and data have not been reproduced here, but have been retained in the files of the committee, and are so noted. The bills are arranged in numerical order, except in the case of bills having a common subject. Those bills have been grouped together, since many comments have been received regarding more than one of the bills.

H.R. 110

To provide equitable treatment for certain fresh vegetables produced in the United States

U.S. International Trade Commission

Section-by-section analysis

The proposed legislation, entitled the "Fresh Vegetable and Potato Trade Act of 1985," is intended to provide equitable treatment for specified fresh vegetables [1] produced in the United States by establishing a surtax on the subject imports either entered, or withdrawn from warehouse for consumption, in the customs territory of the United States. The surtax, to apply in addition to any other applicable duties imposed on entry or withdrawal from warehouse, would be assessed when the Secretary of Agriculture determined that imports in a vegetable category were causing, or threatening to cause, economic injury to U.S. producers of like vegetables.

Section 2 would define several terms pertinent to the complex price calculation for each of the subject vegetables. In addition to the vegetable categories enumerated in subsection (8), other fresh vegetables could be considered for purposes of levying the surtax upon petition by a United States producer.

Section 3 would require the Secretary of Agriculture to monitor market prices for each vegetable category on a weekly basis. If the average weekly price were to drop to less than 90 percent of the three-year average, the category would be designated as "depressed" and be monitored daily. If the average weekly market price falls below the benchmark price (85 percent of the three-year average), and the volume sold exceeds the 1978 figure for the same week by 5 percent or more, injury to U.S. producers would be presumed.

Under section 4, a surtax amount and period would then be announced. The surtax, which would be based on the difference between the benchmark and market prices, would be imposed for a one week period on imports or warehouse withdrawals of vegetables in the category concerned. If the market price did not differ from the benchmark price, then either (1) no surtax would apply, if there were none in the prior week, or (2) the same surtax amount used in the prior week would continue to be imposed. The surtax could be reduced gradually if the market price continued to exceed the benchmark price; it would otherwise be imposed for a 180-day period, with a 90-day extension possible.

[1] The following fresh vegetables and their respective Tariff Schedules of the United States (TSUS) item numbers are cited: cabbage (135.30), carrots (135.41 and 135.42), celery (135.60 and 135.61), lettuce (136.60 and 136.61), onions (136.93), potatoes (137.25, 137.26, 137.28, and 137.29), and radishes (137.40).

Section 5 would permit the Secretaries of Agriculture and of the Treasury to promulgate regulations to carry out the Act.

Background and justification

Description and uses.—The subject fresh vegetables are cabbage, carrots, celery, lettuce, onions (other than sets or pearl onions not over 1 9/16 inch in diameter), potatoes (other than seed potatoes), and radishes. In recent years, Mexico has supplied half of the total aggregate imports (by quantity) of these vegetables, followed by Canada with about 44 percent of aggregate imports. More specifically, the share of total imports (by quantity) for each vegetable supplied by Mexico and Canada in 1984 are shown in the following tabulation.

[In percent]

Item and TSUS number	Mexico	Canada
Cabbage (135.30)	71	14
Carrots (135.41)	0	27
Carrots (135.42)	7	93
Celery (135.60)	0	99
Celery (135.61)	3	94
Lettuce (136.60)	2	98
Lettuce (136.61)	92	6
Onions (136.93)	76	15
Potatoes (135.25)	0	99
Potatoes (135.26)	0	0
Potatoes (135.28)	0	98
Potatoes (135.29)	0	0
Radishes (135.40)	89	6

As indicated, Mexico supplies about three-fourths of the imported cabbage and onions, and most of the imported lettuce (during the period November 1 to May 31 in any year) and radishes. Canada supplies most of the carrots (four inches or more in length) and virtually all of the celery, lettuce (from June 1 to October 31 in any year), and potatoes.

Cabbage.—Cabbage is a green or reddish-purple leafy biennial vegetable plant grown as an annual for its tightly clustered leaves (called a head). The head is resistant to water loss, because of the somewhat waxy surface of the leaves, and can be stored under cool humid conditions for a number of months without a significant loss in weight. The main uses of fresh cabbage are for salads (chiefly in coleslaw), as a cooked vegetable, and as sauerkraut. The bulk of the U.S. cabbage crop is marketed in a chilled state; in recent years, Florida, Texas, and California accounted for most of the production during January–June and new York was the leading producer during July–December. There are not qualitative differences between fresh cabbage supplied by domestic producers and that from the primary foreign suppliers. Chinese cabbage, also classified in TSUS item 135.30, has a distinctive flavor and texture which differ from other imported cabbage and from the bulk of domestic production.[2] In recent years, imports of cabbage from Mexico entered largely during January–April and from Canada during September–February, with consumption of Canadian imports occurring mainly in the northeastern United States.

Carrots.—The carrot is a biennial plant cultivated as an annual for its yellow or reddish-orange, elongated edible root. There are numerous different varieties of commercially grown carrots, varying in length and diameter. The carrot shape in greatest demand for fresh-market sales is a relatively slender, straight or slightly tapered carrot 6 inches to 9 inches in length.[3] Fresh carrots are traded internationally primarily for sale directly to consumers, with some also traded for processing; in recent years, over 60 percent of domestic production has been sold fresh, with the remainder canned or frozen. California is the leading domestic supplier of carrots throughout the year, while additional suppliers include Texas and Arizona during January–June and Wisconsin and Washington during July–December. The principal uses for fresh carrots are in salads or snacks, in juice (pressed), or in stews, soups,

[2] Chinese cabbage is an annual and a member of the mustard family.

[3] Some varieties of carrots produce relatively short carrots, typically from less than 4 to 4½ inches in length, often referred to as "baby" carrots.

and side dishes (cooked). The principal uses of processed (including frozen) carrots by both institutional users and home consumers are in stews, soups, and side dishes. There is no significant difference between the types and varieties of fresh carrots grown in the United States and those grown in Canada or Mexico, the two leading foreign suppliers of fresh carrots to the United States. In 1983/84, about 90 percent of imported carrots were from Canada, entered primarily during September–February; imports from Mexico, the other leading supplier, accounted for between 5 and 10 percent of total imports and were entered primarily during November–April.

Celery.—Celery is an herbaceous (non-woody), biennial plant grown as an annual for its elongated leaf stalks, which grow in a cluster or bunch. For tariff purposes, "fresh" celery includes celery in a chilled (cooled by not frozen) condition, the form in which most celery is distributed. In the fresh form, raw celery is often used as an appetizer and in salads. The stalks are usually cut into 3- and 4-inch lengths (sticks) and may be stuffed with dips or with peanut butter; they are commonly served alone or on a platter with other raw vegetables. Celery is also used in foods such as chow mein, as well as in vegetable juices, soups, stews, and side dishes. Domestically produced and imported celery are similar in quality and appearance. Virtually all imported fresh celery is believed to be sold through fresh-market outlets; of domestic production, however, substantial quantities are intended for processing, primarily during the fall months. The bulk of U.S. imports of fresh celery come from Canada, especially in the summer months—generally after July 31, during the period of higher duties (from August 1 through April 14, inclusive, in any year). Imports entered during the tariff rate period April 15 to July 31 have accounted for less than 5 percent of annual imports in most recent years. Most imports are consumer in the Northeastern United States; these imports compete with the domestic crop produced in Michigan, New York, and California during the summer months.

Lettuce.—Lettuce is a vegetable grown for its crisp, succulent leaves, which are used almost exclusively as an ingredient in fresh salads or for garnishing salads and other dishes. Most lettuce is marketed in a chilled form, rather than fresh; lettuce is not known to be marketed commercially in frozen form. Lettuce is one of the most important vegetable crops produced in the United States. In farm value, it exceeds all other vegetable crops grown for fresh and processing purposes, except potatoes and tomatoes. The three types of lettuce commonly grown in the United States are leaf, head, and Romaine. Head lettuce, the type best adapted to long-distance shipping, is the only kind available in most U.S. markets throughout the year. Most Canadian-grown lettuce enters the United States during July–October and that from Mexico during December–March. Since leaf lettuce is not well suited to long-distance shipping, most imports from Canada are marketed in those midwestern and eastern areas of the United States adjacent to Canada. These are also the areas where much of the small domestic crop of leaf lettuce is produced and marketed.

Onions.—Fresh onions, other than onion sets or pearl onions, may be divided into two general groups: pungent or strong-flavored onions (e.g., yellow globe and danvers varieties) and mild onions (e.g., Bermuda and Spanish varieties). Pungent onions are usually preferred for seasoning, pickling, canning, and dehydrating purposes, and as an ingredient in relishes. Mild onions are preferred in salads and sandwiches. Imports consist primarily of milder-flavored varieties; no qualitative differences exist between domestically produced and imported mild-flavored onions. About 80 percent of U.S. imports in recent years have entered during the first 5 months of the year; domestic production during this period approximated 20 percent of annual output during 1980–84. Imports from Mexico are marketed primarily in the western and central parts of the United States, and imports from Canada in the eastern and mid-western United States.

Potatoes.—White, or Irish, potatoes are the tubers (enlarged underground stems) of the perennial potato plant grown as an annual. The tuber stores surplus carbohydrates not yet used by the plant for growth, fruiting, or other life processes. Potato tubers include a number of sizes, shapes, and skin or flesh colors: white-flesh potatoes are the most popular flesh type in the United States and Canada. Nearly all potato varieties grown commercially are either round white, russet, round red, or long white potatoes. Most varieties are in the round white category and are used principally for boiling, frying, mashing, and chipping. Russet potatoes are used extensively for baking in restaurants, institutions, and in the home; russets are also the preferred processing potato for freezing and dehydration. In recent years, about four-fifths of domestic production of all potatoes were used for food, with the remainder (not covered by legislation) used as seed. Nearly all recent U.S. imports of fresh potatoes have been from Canada, and most of these have entered the Northeastern United States (primarily during October–April). There are no qualitative dif-

ferences between each variety of fresh potatoes grown in the United States and the Canadian counterpart.

Radishes.—The radish is the crisp, fleshy root of the cool season radish plant, grown in the South in winter and in the North in the spring and fall. Radishes are usually eaten raw as appetizers or in salads. Many varieties of radishes are grown having several different root shapes, but the round radishes are the most important commercially in the United States. Small quantities of fresh radishes are processed. Imported radishes are interchangeable with domestic radishes; the bulk of the domestic and imported fresh radishes are marketed with the tops removed. Most of the imports from Mexico, the primary supplier, enter in the December–April period, competing with Florida and California production. Most of the Canadian supplies in recent years have entered during August–January, competing with production in Ohio, Michigan, and California during August and September, and with the California and Florida crop in October–December. Mexican shipments are usually distributed in the western United States and Canadian shipments in the Northeastern United States.

Justification.—Domestic vegetable growers believe that imports of certain fresh vegetables during period of peak domestic production are resulting in reduced market prices, with actual or threatened economic injury to domestic producers. The legislation, reportedly modeled after a similar system in another country, was prepared with the assistance of vegetable growers from the northern tier region, and has the additional support of the National Onion Association. The temporary surtax, to be imposed by the Secretary of Agriculture and collected by customs officials, would effectively raise the prices of the imported articles to levels approximating domestic producer prices.

Prior investigations

Potatoes.—The U.S. International Trade Commission instituted an investigation (Inv. No. 332-140) on April 1, 1982, following receipt of letters of request therefor on February 5 and March 15, 1982, from Ambassador William E. Brock, United States Trade Representative (USTR). The investigation was conducted under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) for the purpose of gathering and presenting information on the competitive status of major supply regions for fall-harvested fresh white or Irish potatoes in selected markets. The USTR requested that the Commission study in particular the competitive conditions affecting the potato industry of the State of Maine and the northeastern market. Further, the Commission was asked to indicate the relative importance of the factors which affect the competitive position of Maine producers vis-a-vis producers in other States or marketing regions of the United States and Canada. The Commission's report, *The Competitive Status of Major Supply Regions for Fall Harvested Fresh White or Irish Potatoes in Selected Markets*, USITC Publication 1282, containing the information obtained during the investigation, was sent to the USTR on August 16, 1982.

On February 9, 1983, a petition was filed concurrently with the Commission and the U.S. Departn.ent of Commerce, by counsel on behalf of the Maine Potato Council, alleging the fall-harvested round white potatoes imported from Canada were being sold in the United States at less than fair value (LTFV). Accordingly, effective February 9, 1983, the Commission instituted investigation No. 731-TA-124 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), to determine whether there was a reasonable indication that an industry in the United States was materially injured, or was threatened with material injury, or the establishment of an industry in the United States was materially retarded, by reason of the importation from Canada of fresh or chilled round white potatoes provided for in items 137.20, 137.21, 137.25, and 137.28 of the Tariff Schedules of the United States. On the basis of the record developed in the subject investigation, the Commission determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports from Canada of fresh or chilled round white potatoes, which were alleged to be sold in the United States at less than fair value (LTFV). The Commission's report, *Certain Fresh Potatoes From Canada* (investigation No. 731-TA-124 (Preliminary), USITC Pub. 1364, March 1983), containing the views of the Commissioners and information developed during the investigation, was sent to the Secretary of Commerce on March 23, 1983.

On August 2, 1983, the Department of Commerce made a preliminary determination that there was a reasonable basis to believe or suspect that fall-harvested round white potatoes from Canada were being, or were likely to be, sold in the United States at LTFV, as provided in section 733 of the Tariff Act of 1930 (19 U.S.C. § 1673b). The petitioner had alleged in the petition that there were "critical circumstances"—that is, massive imports over a short period of time which would require

retroactive imposition of dumping duties in order to prevent the recurrence of the alleged material injury to the domestic industry. The Department of Commerce concluded that critical circumstances did not exist for fall-harvested round white potatoes from Canada, because there were no massive imports over a relatively short period of time.

Following the receipt of a request by counsel for the Canadian Horticultural Council, the Department of Commerce postponed its final LTFV determination. On November 4, 1983, the Department of Commerce determined that fall-harvested round white potatoes from Canada were being sold in the United States at LTFV. Margins were found on 74 percent of the sales compared, with the weighted-average margin on all sales being 36.1 percent.

As a result of the affirmative preliminary determination of LTFV sales by the Department of Commerce, the Commission instituted investigation No. 731-TA-124 (Final), effective August 2, 1983, to determine whether an industry in the United States was materially injured, or was threatened with material injury, or the establishment of an industry was materially retarded, by reason of the importation into the United States of fall-harvested round white potatoes from Canada. On the basis of the record developed in the subject investigation, the Commission determined, pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(1)), that an industry in the United States was not materially injured or threatened with material injury, and the establishment of an industry in the United States was not materially retarded by reason of imprts of fall-harvested round white potatoes from Canada, provided for in items 137.20, 137.21, 137.25, or 137.28 of the Tariff Schedules of the United States, which the Department of Commerce had found to be sold in the United States at less than fair value. The Commission's report, *Fall-Harvested Round White Potatoes From Canada*, USITC Publication 1463, December 1983, containing the information obtained during the investigation along with the determination and views of the Commission, was sent to the Secretary of Commerce on December 19, 1983.

Comparison with present law

Tariff treatment under the TSUS.—For tariff purposes, the subject fresh vegetables are described as fresh, chilled, or frozen vegetables which are "not reduced in size nor otherwise prepared or preserved". Virtually all imports of the subject vegetables under that description have been fresh or chilled.[4] The U.S. rates of duty[5] applicable to these fresh, chilled, or frozen (but not reduced in size nor otherwise prepared or preserved) fresh vegetables are shown in table 1.

The column 1 rates of duty currently in effect for cabbage, celery, lettuce, onions, and radishes are the same rates as were effective prior to January 1, 1980. For carrots, the column 1 rates became effective January 1, 1980, as a result of negotiations—principally with Canada—in the context of the Tokyo round of the Multilateral Trade Negotiations (MTN) and of section 508 of the Trade Agreement Act of 1979 (93 Stat. 253). The current column 1 rates of duty for potatoes represent concessions granted by the United States in the Tokyo round of the MTN; these rates will be reduced annually through January 1, 1987. Imported fresh potatoes (TSUS items 137.25–137.29) are subject to a tariff-rate quota. Not more than 45 million pounds can be entered during the 12-month period, beginning September 15 in any year, at the present (Jan. 1, 1985) duty rate of 35.5 cents per hundredweight (TSUS item 137.25). Over-quota imports are dutiable at 45 cents per hundredweight (TSUS item 137.28). Cabbage (TSUS item 135.30), carrots (TSUS item 135.41), celery (TSUS item 135.60), lettuce (TSUS items 136.60 and 136.61), and radishes (TSUS item 137.40) are

---

[4] Imports of the specified vegetables fresh, chilled, or frozen, and cut, sliced, or otherwise reduced in size, are provided for elsewhere in the TSUS and are outside the scope of the proposed legislation.

[5] The rates of duty in rate of duty column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Initiative (CBI), or under the "LDDC" rate of duty column.

The rates of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column 1 applies.

eligible articles for purposes of the Generalized System of Preferences (GSP).[6] All of the subject vegetables are eligible for duty-free entry under the Caribbean Basin Initiative (CBI).[7]

Tariff treatment under the proposed Harmonized System.—The tariff treatment for the subject fresh vegetables under the draft conversion of the TSUSA to the nomenclature structure of the Harmonized System (HS) is shown in table 2.

Domestic production and structure of industry

During 1980–84, estimated annual U.S. production of the fresh vegetables covered by the proposed legislation averaged 50.0 billion pounds, valued at $3.4 billion; in 1984, production was an estimated 53.2 billion pounds with an estimated $3.5 billion value (table 3). Potatoes accounted for 68 percent of production (by quantity) in 1984, followed by lettuce (12 percent), onions (8 percent), carrots, cabbage, and celery (4 percent each), and radishes (less than 1 percent). In recent years, the leading States in production of fresh vegetables covered here included: California (carrots, celery, lettuce, onions); Florida (cabbage, celery, radishes); Texas (cabbage, carrots, and onions); Arizona (lettuce, onions); New York (cabbage, onions); Idaho (potatoes); and Washington (carrots, potatoes).

U.S. vegetable growers generally do not produce other agricultural crops or raise livestock for the commercial market. The subject vegetables are grown on thousands of individual farms, with many farms—especially those outside the Northeast—raising a number of other vegetables as well. The names and addresses of the principal producing firms are unavailable.

U.S. imports

During 1980–84, U.S. imports of all fresh or chilled vegetables covered here rose 97 percent from 444 million pounds, valued at $47 million, in 1980 to 876 million pounds, valued at $98 million, in 1984 (table 4). In 1984, leading vegetable imports (by quantity), and their respective share of the total, were onions (30 percent), potatoes (29 percent), carrots (18 percent), cabbage (16 percent), lettuce (4 percent), radishes (2 percent), and celery (1 percent). During 1980–84, the largest volume increases occurred in these categories: onions, rising 133 million pounds (103 percent); cabbage, 113 million pounds (380 percent); and potatoes, 113 million pounds (80 percent). Radishes showed the smallest overall increase (2 percent) during this period. The leading foreign suppliers of these fresh vegetables in 1984, and the respective vegetables supplied, were Canada (cabbage, carrots, celery, lettuce, onion, potatoes, and radishes) and Mexico (cabbage, carrots, lettuce, onions, and radishes).

In 1984, Mexico and Israel were the only GSP-eligible countries supplying the subject fresh vegetables. Imports of lettuce (136.61) and radishes from Mexico, the principal supplier of each article, were ineligible for duty-free treatment due to competitive need limitations, as shown in the following tabulation:

GSP-eligible countries [1] and share of total imports

Commodity/TSUS item number	*Percent*
Cabbage (135.30) Mexico	71
Carrots (135.41) Israel	31
Celery (135.60)	.....
Lettuce (136.60)	.....
Lettuce (136.61)	(2)
Radishes (137.40)	(3)

[1] If supplying more than 10 percent of total imports.
[2] Mexico, supplying 92 percent of imports in 1984, was not eligible for duty-free treatment.
[3] Mexico, supply 89 percent of imports in 1984, was not eligible for duty-free treatment.

---

[6] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976, and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[7] The CBI affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBI, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

Although many of the subject vegetables were supplied by a number of different Caribbean Basin Initiative (CBI) countries, the share of total imports supplied by each country was small, as shown in the tabulation on the following page.

CBI countries [1] and share of total imports

Commodity/TSUS item number	*Percent*
Cabbage (135.30) Dominican Republic	1
Carrots (135.41)	.....
Carrots (135.42)	.....
Celery (135.60)	.....
Celery (135.61):	
Guatemala	2
Dominican Republic	(2)
Lettuce (136.60) Dominican Republic	(2)
Lettuce (136.61)	.....
Potatoes (137.25) Dominican Republic	1
Potatoes (137.26)	.....
Potatoes (137.28) Dominican Republic	2
Potatoes (137.29)	.....
Radishes (137.40):	
Dominican Republic	4
Haiti	(2)

[1] If one of the 5 leading foreign suppliers.
[2] Less than 1 percent.

There were no column 2 imports of the subject vegetables during 1984.

The names and addresses of the principal importers of the subject vegetables are not available. The leading importing firms of the Mexican vegetables are customs brokers, located primarily in Nogales, Arizona; customs brokers are also responsible for the entry of much of the subject vegetables from Canada into the northeastern United States. Such firms do not take possession of the imported goods; they are responsible for executing the necessary transactions involved in moving the goods through the U.S. Customs Service entry port for other parties.

U.S. exports

Total U.S. exports of these fresh vegetables rose 5 percent from 998 million pounds, valued at $126 million, in 1980 to 1.1 billion pounds, valued at $149 million, in 1984 (table 5). In 1984, the share of total exports (by quantity) for each vegetable was lettuce (32 percent), onions (26 percent), celery (14 percent), potatoes (13 percent), carrots (8 percent), cabbage (5 percent), and radishes (2 percent). Canada was the leading export market for each vegetable except onions in 1984; Japan accounted for 44 percent of the onion exports and Canada for 40 percent. During 1980–84, U.S. exports (by quantity and value) of each of the subject vegetables (except potatoes and radishes) trended upward. The names and addresses of exporters are not recorded and are, therefore, not available.

Apparent U.S. consumption

During 1980–84, apparent U.S. consumption of the subject fresh vegetables trended upward and averaged 50 billion pounds annually; in 1984, consumption amounted to 53 billion pounds, valued at $3.4 billion (table 6). As shown in table 7, apparent consumption of each of the subject vegetables increased during 1980–84, with the largest and smallest percentage increases noted for onions and lettuce, respectively. Imports averaged 1 percent (by quantity) of annual consumption during 1980–84. The ratio of imports to consumption varied by commodity during the period and ranged from 0.3 percent (5-year average) for lettuce to 9 percent for radishes, as shown in table 7.

Effect on revenue

The potential annual revenue gain resulting from the enactment of this legislation cannot be estimated because of the complex formula for calculating the surtax; in addition, the market prices paid for each type vary weekly. Indeed, when the imported articles are sold at prices greater than those for comparable domestic products, as is sometimes the case, no surtax would be imposed. Nor can changes in import levels be predicted.

Technical comments

The definitions in section 2(8) of the proposed legislation refer to fresh vegetables only while the cited TSUS items cover such vegetables in the fresh, chilled or frozen

state. It is unclear whether the legislation is intended to cover only fresh vegetables in the cited TSUS item numbers or whether it is also intended to cover such vegetables imported under the listed items in chilled or frozen condition. It should also be noted that TSUS item 136.93 covers all fresh, chilled, or frozen onions other than onion sets (item 136.90) and pearl onions not over 10/16 inch in diameter (item 136.92). Thus, the definition in section 2(8)(E) as drafted would pose administrative problems for both the Secretary of Agriculture and the Customs Service by including only a portion of the onions classified in item 136.93; the work of customs officers could be simplified by referring to the entire TSUS item. It should also be noted that two Cuban tariff preference items, 137.26 and 137.29, covering potatoes need not be included in this legislation unless trade with Cuba is restored.

Other than those product coverage problems, several provisions of the legislation should be modified. In sectioin 2(3), the word "within" should probably appear as "in" to be consistent with other trade and tariff legislation. More significant is the use of "market price" in definition 2(2) as pertaining to prices both domestic and imported articles while 2(4) defines the phrase as applying only to imported vegetables. Confusion also is created by definition 2(5), which refers to vegetables "of a kind *like* those in a vegetable category" [emphasis added], while in many parts of the legislation the term "vegetable category" is not limited to imported articles. Thus, (5) could be rewritten as follows: "The term 'marketing season' means the marketing season, as determined by the Secretary, for each category of vegetables, the product of the United States, which would, if imported, be classified in the tariff Schedules of the united States (TSUS) (19 U.S.C. 1201) in the tariff items enumerated in paragraph 2(8)." (8) could be revised to begin "The term 'vegetable category' means any of the following types of vegetables, if fresh, as described in the indicated TSUS items but not limited to imported articles:". After 2(8)(G), the language after "add" should appear as "as a vegetable category for the duration of a marketing season any other fresh vegetable provided for in subpart A, part 8, schedule 1 of such Schedules if . . . ." Additional confusion arises from the use in 2(7) of the vague term "marketing area".

In section 3, the Secretary is authorized to monitor and consider only the prices of imported vegetables, since "market price" is defined in 2(4) to include prices of imported articles only, though "articles" as defined in 2(1) covers domestic vegetables as well. It should be observed that the monitoring contemplated by section 3(b)(2) will be complicated by the fact that vegetables are fungible (that is, it could be difficult to ascertain which vegetables are imported and which are domestic). The formula set forth in 3(c) for finding a presumption of injury may not fully take into account some factors influencing prices, such as the relative quality of vegetables in the current period compared to the benchmark period, or changes in the share of total supply composed of imported versus domestic articles in these periods. Such aspects of price may not be adequately reflected in "average market prices" being monitored by the secretary, particularly if "market price" is limited to imported vegetables. Nor does the legislation provide for an investigation and jury determination by the U.S. International Trade Commission, as is the cose with most U.S. import injury legislation. It should be observed that a single U.S. producer (whether or not representing an industry) could ask for the addition of other vegetable categories to the surtax program.

Finally, it should be noted that the proposed surtax calculation rules are complicated and may create administrative burdens for both government agencies and importers, due to the short notice period before any surtax becomes effective and to the potential weekly change in its amount. While the program is of indefinite duration, and while there may be additions to the list of vegetable categories, there is no provision for the removal of categories from the group being monitored or from the "depressed" group. Givern potential changes in supply (so that imports might drop during the surtax period because of shortages), the surtax may apply to imports which are having a minimal impact on terminal market prices in later weeks of that period, since it may be difficult to monitor import and domestic prices separately.

GATT comments

It should be noted that the surtax, effectively an additional duty, would if imposed constitute a duty increase above bound duty levels, particularly in the case of carrots and potatoes and of any vegetables added later for which duty rates had been agreed or concessions given. Under Article XXIII of the GATT, such action would obligate the United States to give compensatory concessions to the affected contracting parties or face the retaliatory withdrawal of corresponding reciprocal benefits in their GATT concessions. Absent a showing of increased imports as a

cause or threat of serious injury to U.S. producers, the United States could not base its action on the provisions of Article XIX. Nor would the imposition of the surtax be supported by finding of dumping or improper subsidies, which would permit the assessment of equivalent offsetting duties.

In addition, it may be observed that Canada has enacted similar provisions concerning perishable product imports and at one point imposed a surtax on U.S. onions being exported to Canada. The surtax was terminated in light of U.S. Government preparations to file a complaint under the GATT.

Table 1.--Certain fresh vegetables: U.S. rates of duty, by TSUS items

(Cents per pound; percent ad valorem)

TSUS item No. 1/	Description	Pre-MTN col. 1 rate of duty 2/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
	Vegetables, fresh, chilled, or frozen (but not reduced in size nor otherwise prepared or preserved:										
135.30A	Cabbage	0.55¢	3/	3/	3/	3/	3/	3/	3/	3/	2¢.
	Carrots:										
135.41A	Under 4 inches long	6%	1¢	4/	4/	4/	4/	4/	4/	4/	8¢.
135.42	Other	6%	0.5¢	4/	4/	4/	4/	4/	4/	4/	4¢.
	Celery:										
135.60A	If imported and entered during the period from April 15 to July 31, inclusive, in any year.	0.25¢	3/	3/	3/	3/	3/	3/	3/	3/	2¢.
135.61	Other	1¢	3/	3/	3/	3/	3/	3/	3/	3/	2¢.
	Lettuce:										
136.60A	If entered during the period from June 1 to October 31, inclusive, in any year.	0.4¢	3/	3/	3/	3/	3/	3/	3/	3/	2¢.
136.61A*	Other	2¢	3/	3/	3/	3/	3/	3/	3/	3/	2¢.
	Onions:										
136.93	Other	1.75¢	3/	3/	3/	3/	3/	3/	3/	3/	2.5¢.
	Potatoes, white or Irish:										
	Other than such certified seed:										
137.25	For not over 45,000,000 pounds and such additional quantity as may be allowed pursuant to headnote 2 of this part, entered during the 12-month period beginning Sept. 15 in any year.	37.5¢ 5/	37¢ 5/	37¢ 5/	36.5¢ 5/	36¢ 5/	36¢ 5/	35.5¢ 5/	35¢ 5/	35¢ 5/	75¢ 5/.
137.26	If products of Cuba and entered during the period from Dec. 1 in any year to the last day of the following February, both dates inclusive.	6/									
137.28	Other	75¢ 5/	70¢ 5/	65¢ 5/	60¢ 5/	55¢ 5/	50¢ 5/	45¢ 5/	40¢ 5/	35¢ 5/	75¢ 5/.
137.29	If products of Cuba and entered during the period from Dec. 1 in any year to the last day of the following February, both dates inclusive.	6/									
137.40A*	Radishes	6%	3/	3/	3/	3/	3/	3/	3/	3/	50%.

1/ The designation "A" or "A*" indicates that the item is currently designated as an eligible article for duty-free treatment under the U.S. Generalized System of Preferences. "A" indicates that all beneficiary developing countries are eligible for the GSP. "A*" indicates that certain of these countries, specified in general headnote 3(c) of the Tariff Schedules of the United States Annotated, are not eligible.

2/ Rate effective prior to Jan. 1, 1980.

3/ Rate not modified in the Tokyo round of the Multilateral Trade Negotiations (MTN).

4/ Bound under the Tokyo round of the MTN.

5/ Per 100 pounds.

6/ 30-cent-per-100-pound rate suspended.

Table 2.--Certain fresh vegetables: Harmonized System rates of duty, by HS commodity code number

(Cents per kilogram; percent ad valorem)

HS commodity code number	Product description	Rates of duty	
		Col. 1 1/	Col. 2
	Edible vegetables and certain roots and tubers:		
0704.90.20	Cabbage, fresh or chilled	1.2¢	4.4¢.
	Carrots:		
0706.10.05	Reduced in size	17.5%	35%.
	Other:		
0706.10.10	Under 10 cm. in length	2.2¢	17.6¢.
0706.10.20	Other	1.1¢	8.8¢.
	Celery other than celeriac:		
0709.40.20	Reduced in size	17.5%	35%.
0709.40.40	Other	2.2¢	4.4¢.
	Lettuce, head (cabbage lettuce):		
0705.11.20	If entered in the period from June 1 to Oct. 31, inclusive, in any year.	0.88¢	4.4¢.
0705.11.40	Other	4.4¢	4.4¢.
	Lettuce, other:		
0705.19.20	If entered in the period from June 1 to Oct. 31, inclusive, in any year.	0.88¢	4.4¢.
0705.19.40	Other	4.4¢	4.4¢.
	Onions:		
0703.10.40	Other	3.9¢	5.5¢.
0701.90.00	Potatoes, other than seed	0.77¢	1.7¢.
0706.90.20	Radishes (other than horseradish)	6%	50%.

1/ Represents the "General" col. 1 rate.

Table 3.--Certain fresh vegetables: U.S. production, by specified vegetables, 1980-84

Item	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Cabbage	1,884,900	1,980,700	1/ 1,901,500	1/ 1,833,700	1/ 1,936,400
Carrots 2/	1,953,900	2,046,600	2,342,000	2,263,800	3/ 2,259,500
Celery 2/	1,865,500	1,862,800	1,913,900	1,828,700	3/ 2,057,700
Lettuce	6,329,700	6,262,200	6,277,700	6,323,100	3/ 6,439,800
Onions 2/	3,347,600	3,502,100	4,163,700	3,837,000	3/ 4,161,100
Potatoes	30,285,700	33,859,100	35,513,100	33,391,100	3/36,164,800
Radishes	131,700	142,700	1/ 135,900	1/ 131,100	1/ 138,400
Total	45,799,000	49,656,200	51,661,500	49,608,500	53,157,700
	Value (1,000 dollars)				
Cabbage	151,103	140,504	1/ 149,173	1/ 178,300	1/ 180,000
Carrots 2/	161,905	182,171	198,418	208,608	3/ 237,983
Celery 2/	169,896	200,622	194,280	250,239	3/ 261,010
Lettuce	565,148	681,470	755,496	788,892	3/ 732,868
Onions 2/	346,539	475,395	306,371	427,997	3/ 405,553
Potatoes	1/1,983,713	1/1,818,476	1/ 1,547,277	1/ 1,469,208	1/1,591,251
Radishes	1/ 35,559	1/ 38,529	1/ 38,052	1/ 45,500	1/ 46,200
Total	1/3,413,863	1/3,537,167	1/ 3,189,067	1/ 3,368,744	3,454,865

1/ Estimated by the staff of the U.S. International Trade Commission.
2/ Includes production for processing.
3/ Preliminary.

Source: Compiled from official statistics of the U.S. Department of Agriculture, except as noted.

Table 4.--Certain fresh vegetables: U.S. imports for consumption, by specified vegetables, 1980-84

Description	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Cabbage	29,809	5,882	26,574	30,805	143,192
Carrots	108,681	87,881	105,126	126,668	161,490
Celery	4,866	7,426	10,206	10,430	7,248
Lettuce	15,155	11,403	14,597	21,436	32,558
Onions	129,493	133,109	163,914	202,426	262,405
Potatoes	140,675	246,984	348,374	279,557	253,579
Radishes	15,567	6,370	7,800	10,749	15,889
Total	444,246	499,055	676,591	682,071	876,361
	Value (1,000 dollars)				
Cabbage	2,550	607	2,371	2,442	13,055
Carrots	11,036	8,930	8,468	14,071	15,504
Celery	615	1,023	1,171	1,521	849
Lettuce	1,819	1,992	3,898	3,742	5,808
Onions	20,261	21,145	24,325	24,571	38,119
Potatoes	8,849	19,533	23,603	18,456	21,523
Radishes	1,730	835	1,225	2,127	2,825
Total	46,861	54,066	65,060	66,930	97,683

Source: Compiled from official statistics of the U.S. Department of Commerce.

Note.--Because of rounding, figures may not add to totals shown.

Table 5.--Certain fresh vegetables: U.S. exports of domestic merchandise, by specified vegetables, 1980-84

Description	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Cabbage	38,496	48,566	50,608	29,842	50,825
Carrots	62,463	87,395	78,428	69,257	80,638
Celery	136,298	141,676	153,703	145,487	152,285
Lettuce	302,100	388,901	379,071	372,156	336,031
Onions	256,551	420,135	140,698	183,163	273,895
Potatoes 1/	176,362	261,399	205,895	184,973	137,459
Radishes 2/	26,037	28,083	22,698	22,132	3/ 19,269
Total	998,307	1,376,155	1,031,101	1,007,010	1,050,402
	Value (1,000 dollars)				
Cabbage	4,292	5,116	6,811	3,181	6,591
Carrots	7,970	15,141	13,259	12,071	15,485
Celery	17,601	20,100	21,213	22,273	22,871
Lettuce	40,241	50,286	51,795	50,228	42,392
Onions	31,948	68,901	19,132	23,172	39,161
Potatoes 1/	19,352	35,286	25,428	21,417	18,531
Radishes 2/	5,012	5,146	4,897	5,527	3/ 4,443
Total	126,416	199,976	142,535	137,869	149,474

1/ Includes data for seed and non-seed use.

2/ Compiled from official import statistics of Statistics Canada; values converted to U.S. dollars.

3/ Data thru October.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

Table 6.--Certain fresh vegetables: U.S. production, exports, imports, and apparent consumption, 1980-84

(Quantity in millions of pounds; value in millions of dollars; unit value per pound)

Year	Production	Exports	Imports	Apparent consumption	Ratio (percent) of imports to consumption
	Quantity				
1980	45,799	998	444	45,245	1
1981	49,656	1,376	499	48,779	1
1982	52,248	1,031	677	51,894	1
1983	49,609	1,007	682	49,284	1
1984	53,158	1,050	876	52,984	2
	Value				
1980	3,414	126	47	3,335	-
1981	3,537	200	54	3,391	-
1982	3,189	143	65	3,111	-
1983	3,369	138	67	3,298	-
1984	3,455	149	98	3,404	-

Source: Production, compiled from official statistics of the U.S. Department of Agriculture, and from estimates by the staff of the U.S. International Trade Commission; exports, compiled from official statistics of the U.S. Department of Commerce and Statistics Canada; imports, compiled from official statistics of the U.S. Department of Commerce.

Table 7.--Certain fresh vegetables: Apparent consumption and the ratio of imports to consumption, by commodity, 1980-84

Commodity	1980	1981	1982	1983	1984	5-year average
	In millions of pounds					
Cabbage	1,876	1,938	1,877	1,885	2,029	1,921
Carrots	2,000	2,047	2,369	2,321	2,340	2,215
Celery	1,734	1,729	1,770	1,694	1,913	1,768
Lettuce	6,043	5,885	5,913	5,972	6,136	5,990
Onions	3,221	3,215	4,187	3,856	4,150	3,726
Potatoes	30,250	33,845	35,656	33,486	36,281	33,905
Radishes	121	121	121	120	135	124
Total	45,245	48,779	51,308	49,284	52,984	49,520
	Percent					
Cabbage	2.0	0.3	1.0	2.0	7.0	2.0
Carrots	5.0	4.0	4.0	5.0	7.0	5.0
Celery	.2	.4	.6	.6	.4	.4
Lettuce	.3	.2	.2	.4	.5	.3
Onions	4.0	4.0	4.0	5.0	6.0	5.0
Potatoes	.5	.7	1.0	.8	.7	.7
Radishes	13.0	5.0	6.0	9.0	12.0	9.0
Average	1.0	1.0	1.0	1.0	2.0	1.2

Source: Compiled by the Commission staff.

Note.--Because of rounding, figures may not add to totals shown.

U.S. DEPARTMENT OF COMMERCE,
Washington, DC, June 18, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on H.R. 110, a bill "To provide equitable treatment for certain fresh vegetables produced in the United States."

H.R. 110 would require, under certain circumstances, the Secretary of Agriculture to impose a surtax or duty for up to 270 days on the entry of imported fresh vegetables classified in specified tariff classifications. The bill would further establish a presumption that such imports were causing, or threatening to cause, "economic injury" to domestic producers of such vegetables.

The Department opposes enactment of this legislation. Where unfair foreign trade practices are involved, we believe that the antidumping and countervailing duty laws administered by this Department and the United States International Trade Commission provide adequate procedures for relief from unfair foreign trade practices. Under these laws, additional duties may be imposed on imported products if they are being unfairly subsidized or offered for sale in the United States at less than fair value. Where unfair competition is not a factor, other laws, such as section 201 of the Trade Act of 1974, provide relief to domestic industries that are injured or threatened with injury by increasing—but fair—import competition.

We would further note, as a technical matter, that by employing the term "economic injury", the bill may raise concerns among other signatories to the General Agreement on Tariffs and Trade (GATT) that the United States intends to depart from the concept of "material injury", as employed in the GATT Antidumping and Subsidy Codes. Under these Codes, such a departure would result in demands for compensation, or retaliation, by our GATT trading partners to the extent that it causes a nullification or impairment of their benefits under GATT.

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS,
General Counsel.

STATEMENT OF PAUL A. DRAZEK, ASSISTANT DIRECTOR, NATIONAL AFFAIRS DIVISION, AMERICAN FARM BUREAU FEDERATION

The American Farm Bureau Federation would like to present our position on various tariff and trade bills currently before the Ways and Means Subcommittee.

Farm Bureau is the nation's largest general farm organization with a membership of over 3 million families in 48 states and Puerto Rico. As a general farm organization, Farm Bureau represents the interests of all of agriculture and is especially concerned with trade actions that affect the entire farm community.

The following are our views on the various bills that deal with agricultural trade:

DUTY-FREE BILLS

H.R. 1696: To make permanent the existing temporary duty-free treatment for certain wools (not) finer than 46s.

We would first likc to point out the omission of the word "not" in the preface of the bill. Farm Bureau has no objection to a continuance of the current duty-free treatment on a temporary basis. However, we oppose the unilateral reduction or elimination of U.S. duties on a permanent basis. In trade negotiations, the United States can only obtain duty reductions in other countries by offering reciprocal concessions on U.S. duties. A permanent legislated duty reduction would remove any interest on the part of foreign countries in "earning" concessions the United States might grant. We should not give up our negotiating leverage unilaterally.

H.R. 2075: To make permanent the free rate of Customs duty on fresh canaloupes imported at certain times, and for other purposes.

Farm Bureau's position, as enunciated on H.R. 1696 above, is that the United States should not make unilateral duty reductions or suspensions permanent because this substantially reduces U.S. leverage in trade liberalization negotiations.

DUTY INCREASE BILLS

H.R. 110: To provide equitable treatment for certain fresh vegetables produced in the United States.

This bill would supercede existing escape clause laws allowing protection from rising imports that are compatible with U.S. obligations under the General Agreement on Tariffs and Trade. Farm Bureau recognizes the need for so-called fast-track escape clause action in the cases of perishable commodities but opposes any legislation that would violate our international obligations and invite retaliation by other countries against U.S. exports. Farm Bureau, therefore, cannot support H.R. 110.

H.R. 1701: To amend the Tariff Schedules of the United States to provide for rates of duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations.

Farm Bureau opposes unilateral increases in U.S. duties that have been bound in reciprocal tariff negotiations under the General Agreement on Tariffs and Trade (GATT). Such an action would be contrary to our international obligations and would provide justification for other countries to increase duties on U.S. agricultural exports where U.S. duties are higher than theirs. The GATT allows countries to increase bound duties, under Article XXVIII, but requires those countries to compensate with tariff reductions on other products of equal value to the affected exporting countries. Farm Bureau believes U.S. agriculture has more to lose than gain by embarking on a course of unilateral tariff increases. If the high duties in the European Community on roses are a hindrance to U.S. exporters, Farm Bureau would support U.S. efforts in tariff negotiations to seek duty reductions.

QUANTITATIVE RESTRICTION, PROHIBITION, AND EMBARGO BILLS

H.R. 431: To direct the President to impose certain limitations on the amount of milk protein products that may be imported into the United States; and

H.R. 1629: To amend the Agricultural Act of 1949. (Relating to milk products.)

Farm Bureau supports the establishment of an import quota for casein. We believe, however, that such a quota should be instituted under the provisions of Section 22 of the Agriculture Adjustment Act under which an investigation by the International Trade Commission (ITC) would determine whether imports constitute a threat to the domestic milk price support program. Under this approach, U.S. import restrictions would be consistent with our international GATT obligations. Farm Bureau would support such an investigation by the ITC.

H.R. 1033: To prohibit the importation of certain products of Australia and New Zealand.

Farm Bureau strongly opposes this protectionist legislation. Such legislation is not in U.S. agriculture's interest as a large net exporter of farm products.

H.R. 1137: To impose restrictions on the quantity of foreign unmanufactured tobacco that may be imported into the United States.

Farm Bureau opposes legislated protectionist measures that are inconsistent with U.S. international obligations. Farm Bureau has supported in the past, and would support in the future, import controls established through the existing Section 22 process in which an investigation by the International Trade Commission determines whether imports of tobacco are a threat to the domestic tobacco price support program.

International trade is crucial to American agriculture, and we are continually on guard to prevent protectionist actions by other countries that would reduce our exports and thus farmers' incomes. We must also avoid taking actions that would undermine our efforts to keep world markets open to our goods. Farm Bureau, therefore, appreciates your consideration of our views on these bills.

STATEMENT OF HENRY J. VOSS, PRESIDENT, CALIFORNIA FARM BUREAU FEDERATION

The California Farm Bureau Federation (CFBF) welcomes the opportunity to comment on a number of miscellaneous tariff and trade bills coming before the Subcommittee. International trade is a high priority for the Farm Bureau. We in California are greatly affected by the strength of our exports and concerned by our vulnerability to the unfair trade practices of some competing nations.

CFBF represents roughly 85% of the farmers in the state. Our policies are the result of thorough discussions and consideration by our members throughout the year. It is from these policies that we determine our position on legislation such as these bills on tariff and trade adjustments.

The following are our comments on certain bills relating to agricultural trade.

DUTY-FREE BILLS

H.R. 1696 (Frenzel) and H.R. 2075 (de la Garza): To make permanent the existing temporary duty-free status on certain wools and cantaloupes, respectively. We are concerned about legislatively established duty-free status for these products. We feel that legislation to make permanent duty-.free status removes an important negotiating point from agriculture's reach. CFBF opposes H.R. 1696 and H.R. 2075.

DUTY INCREASE BILLS

H.R. 110 (Gilman, et al.): To provide equitable treatment for certain fresh vegetables produced in the U.S. Farm Bureau supports fast-track legislation to provide relief for agricultural producers affected by unfair foreign competition. This bill, however, does not directly address unfair practices by our foreign competitors, but takes a more protectionist approach.

We feel that trade remedies should be implemented in direct response to unfair trading conditions, and, therefore, recommend that channels such as contervailing duties, antidumping charges, and remedies under Section 301 of the Trade Act of 1974 be used. H.R. 110 would apply a surtax to all "depressed" commodities, without regard to foreign subsidization or preferential pricing policies. While the domestic vegetable producers are facing competition from imports, and some segments may be deemed depressed by any standard, the formula in the bill may not be the best by which to make the determination. We oppose H.R. 110 as currently written.

H.R. 1701 (Panetta): To amend the Tariff Schedules of the U.S. To provide for rates of duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the U.S. Inequal duties on roses between the U.S. and the EC are detrimental to the domestic industry. Mr. Panetta's bill proposes a change in tariffs that would result in a more equitable trading situation for the rose growers in the U.S., Europe and third countries such as Columbia. This legislation has come before Congress in recent years without success. We are optimistic that, because of the frustration shared by the industry as well as Congress, the necessity for equitable treatment in U.S.-EC trade will be recognized this year. CFBF supports H.R. 1701.

CLASSIFICATION BILLS

H.R. 2324 (Bonker): To amend the Tariff Schedules of the U.S. to clarify the duty treatment of certain types of plywood. Farm Bureau supports this specification of certain wood products in the TSUS, as the clarification will help to eliminate ambiguity and misunderstanding.

H.R. 2362 (MacKay, et al.): To establish equal and equitable classification and duty rates for certain imported citrus products. This proposed amendment to the Tariff Schedules of the U.S. would clarify certain items in the citrus category and reduce ambiguity. Farm Bureau supports this bill because it would improve equity and fairness in citrus trade.

QUANTITATIVE RESTRICTION, PROHIBITION, AND EMBARGO BILLS

H.R. 1629 (Rose, et. al.) and H.R. 431 (Roth, Duncan, et. al.): Regarding the importation of milk protein products. A recent ITC study indicated that 85% of casein imports for domestic use went into food and animal feed products in 1980. This displaced the use of domestic milk and milk products. The result of the substitution was the conversion of displaced milk solids into other products, the most common of these being nonfat dry milk, 80% of which ended up in CCC storage. Farm Bureau is concerned about the impact of casein imports on the domestic dairy program. While we support the concept of import quotas on casein, we would urge that they be established through a Section 22 rather than legislatively.

H.R. 2379 (Bedell): Amends the Federal Meat Inspection Act to prohibit the importation of live animals and meat products from countries having standards for the use of certain antibiotics in food-producing animals that are not as stringent as those of the United States. Farm Bureau requests that all imported meats be subject to the same inspection, sanitary, quality, species verification and residue standards applied to meats produced in the United States. We also recommend that all imported meats be clearly labeled at the retail level as to country of origin. H.R. 2379 would achieve a portion of our request regarding imported meat and meat products. Farm Bureau supports this bill.

H.R. 2158 (Marlenee, Thomas of California, et. al.): Prohibits importation of beef, bananas, and sugar from Nicaragua until the President finds that the policies of their government are consistent with its obligations under specified terms. Farm

Bureau believes that embargoes should be used only in cases necessary for national security or compelling foreign policy reasons. Should a trade embargo or restrictions be declared for national security or foreign policy reasons, the embargo should apply to *all* trade, technology and exchanges, except those needed to maintain diplomatic relations. Farm Bureau opposes H.R. 2158 because it restricts only a narrow segment of trade with a foreign country.

CUSTOMS AND OTHER NONTARIFF MATTERS BILLS

H.R. 839 (Schulze): Relating to the marking of containers of imported mushrooms. Farm Bureau supports measures requiring all imported agricultural products to be labeled as to country of origin. Therefore, we support H.R. 839.

H.R. 1567 (Leach of Iowa, et. al.): To exclude from the Caribbean Basin Economic Recovery Act ethyl alcohol used for fuel which is merely distilled or denatured in a beneficiary country. Under current circumstances, the intent of the Caribbean Basin Economic Recovery Act is being violated by third countries wishing to circumvent the 60 cent per gallon duty on ethyl alcohol imported to the U.S. To let this practice continue would be damaging both to domestic corn producers and to government programs directed at improving farm income and stabilizing the agricultural economy. Farm Bureau supports H.R. 1567.

H.R. 2382 (Chappie): The Beekeeper Preservation Act of 1985. This bill and its companion bill (S. 1025, Pressler) call for a mandatory Section 22 investigation by the International Trade Commission to determine the impact of honey imports on the domestic market. The ITC is also called upon to recommend appropriate action subsequent to its findings.

In 1976, the beekeeping industry petitioned the ITC for relief from low-priced honey imports. Despite a favorable recommendation by the ITC, no action to limit honey imports and prevent damage to the domestic industry was implemented by the President. Since 1976, honey imports have continued to increase and the amount of honey forfeited to USDA under the honey loan program has increased at almost the same rate. While imports increased, domestic production actually declined. Until 1980, the honey loan program was still administered at no cost to the government. However, since 1980, the cost of the honey program has increased dramatically.

Honey imports for calendar year 1984 reached 128.7 million pounds, and imports for the first quarter of 1985 are ahead of the record 1984 levels. At the same time, very little domestic honey is being sold.

Normally, imports complement our limited domestic production to meet the U.S. demand for honey. We recognize that imports are needed to compensate for lack of domestic production. However, when low-priced imports are both detrimental to the viability of the industry and encourage the over-utilization of a domestic farm program, justification exists for placing some limit on imports. A Section 22 ITC investigation and subsequent recommendation could have two positive effects. First, a favorable recommendation would protect domestic producers. Secondly, and perhaps most importantly from an economic viewpoint, a Section 22 could significantly reduce the cost of the honey loan program to the Government.

It is undeniable that the value of the honeybee goes far beyond the honey produced. An exodus of domestic beekeepers could threaten the production of nearly 100 crops in the U.S. in which a lack of proper pollination would cause production to be significantly reduced. In 1981, USDA estimated the value of crops pollinated by bees at 143 times the value of the honey produced. The estimated value of crops pollinated by honeybees is $19 billion.

Also dependent on pollination by honeybees are the many plants essential to the survival of various forms of wildlife.

One way to preserve the honeybee in the U.S. economy is through an ITC investigation on the impact of honey imports and implementation of the Commission's recommendations. Along with this action, the Honey Loan Program must be continued. The cost of the loan program would be reduced and might even be eliminated by the imposition of some type of import restrictions. Farm Bureau supports H.R. 2382.

We appreciate your thoughtful consideration of our comments on these bills.

SUMMARY

Bill	Subject	Position
H.R. 1696 (Frenzel)	Wool imports	Oppose.
H.R. 2075 (de la Garza)	Cantaloupes	Oppose.

SUMMARY—Continued

Bill	Subject	Position
H.R. 110 (Gilman, et al.)	Vegetables	Oppose.
H.R. 1701 (Panetta)	Roses	Support.
H.R. 2324 (Bonker)	Plywood	Support.
H.R. 2362 (MacKay, et al.)	Citrus	Support.
H.R. 431 (Roth, et al.)	Milk protein	Oppose.
H.R. 1629 (Rose, et. al.)	Milk protein	Oppose.
H.R. 2379 (Bedell)	Meat inspection	Support.
H.R. 2158 (Marlenee)	Nicaragua	Oppose.
H.R. 839 (Schulze)	Mushrooms	Support.
H.R. 1567 (Leach)	Ethyl alcohol	Support.
H.R. 2382 (Chappie)	Honey	Support.

H.R. 209

To return the ad valorem and specific duties on necktie imports to the levels in effect as of January 1, 1981, for a period of 5 years

U.S. International Trade Commission

Section-by-section analysis

Section 1(a) of H.R. 209, if enacted, would amend part 6B of schedule 3 of the Tariff Schedules of the United States (TSUS) to replace the current most-favored-nation or column 1 rates of duty [1] on imports of men's and boys' neckties [2] with the 1981 duty rates. The higher 1981 duty rates were in effect before the first stage of tariff reductions on textiles and apparel agreed to during the Tokyo round of the Multilateral Negotiations (MTN) was implemented in 1982. In addition, under section 1(b), the duty rates on such neckties would be exempt from any staged rate reductions proclaimed by the President prior to the enactment of the legislation, thereby superseding the duty reductions agreed to in the MTN (to take effect annually through 1987). Pursuant to section 1, these amendments would be effective as of the fifteenth day after their enactment.

Background and justification

Description and uses.—The legislation would affect imported men's and boys' neckties of textile materials such as silk, wool, vegetable fibers (including cotton), and man-made fibers. Silk and man-made fibers are by far the most important fibers used to manufacture neckties. And industry survey by the Neckwear Association of America indicates that for 1983, 38 percent by value of domestic necktie production was made of 100 percent silk, 30 percent of polyster blends (primarily polyester-silk blends), 15 percent of 100 percent polyester, 9 percent of cotton, 4 percent of wool, and 4 percent of other fibers.

With respect to the value of imported neckties during 1984, approximately 67 percent were in chief value of silk (including a significant quantity of polyester-silk blends), 15 percent were of wool, 10 percent were of man-made fibers and 7 percent were of vegetable fibers (including cotton). Overall, trade sources indicate that silk and polyester-silk ties are annually becoming more popular at the retail level.

Domestic neckties are considerably more expensive than the imported articles. In 1984, the estimated average value of domestic neckties was $60.53 per dozen, versus $32.67 per dozen for imports after duties, insurance, and freight costs have been included.

Justification.—The apparent intent of the legislation is to provide an increase in tariff rates on imported neckties; such adjustment would slow the growth in imports and give the domestic necktie industry time to adjust to the rising import levels. This change would have the effect of nullifying the negotiated rates from the Tokyo round as to these products.

Comparison with present law

Tariff treatment under the TSUS.—The rates of duty applicable to U.S. imports of neckties and the scheduled tariff reductions negotiated in the Tokyo round of the MTN are shown in the following table. The pre-MTN column 1 rates of duty are those which were in effect in 1981—and which would be restored by the legislation. The average ad valorem equivalent duty paid on imported neckties during 1984 was

---

[1] The rates of duty in rate of duty column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Initiative (CBI), or under the "LDDC" rate of duty column.

[2] The subject neckties are classified for tariff purposes under TSUS items 373.05 through 373.30.

12 percent, compared to 12.9 percent during 1983, 14.2 percent during 1982, and 15.3 percent during 1981. The table also sets forth the column 2 rates of duty [2] applicable to these articles.

MEN'S AND BOYS' NECKTIES OF TEXTILE MATERIALS: U.S. RATES OF DUTY BY TSUS ITEMS

[Cents per pound; percent ad valorem]

TSUS item Number	Description	Pre-MTN column 1 rate of duty [1]	Staged column 1 rate as to articles entered on or after January 1,—		
			1982	1983	1984
373.05	Ornamented	21%	20%	19%	18%
	Not ornamented:				
373.10	Of vegetable fibers	16.5%	15.1%	13.7%	12.3%
373.15	Of wool	37.5¢+10.5%	31¢+10.1%	25¢+9.7%	19+9.3%
	Of silk:				
373.20	Knit	10%	9.7%	9.3%	9%
373.22	Not knit	16%	14.7%	13.3%	12%
	Of man-made fibers:				
373.25	Knit	12¢+16%	10¢+14.7%	8¢+13.3%	6¢+12%
373.27	Not knit	12¢+13.5%	([3])	([3])	([3])
373.30	Other	10%	9.7%	9.3%	9%

TSUS item Number	Description	Staged column 1 rate effective as to articles entered on or after—			Column 2 rate
		1985	1986	1987	
373.05	Ornamented	16.9%	15.9%	14.9%	90%
	Not ornamented:				
373.10	Of vegetable fibers	10.8%	9.4%	8%	37.5%
373.15	Of wool	12¢+8.8%%	6¢+8.4%	8%	52%
	Of silk:				
373.20	Knit	8.7%	8.3%	8%	60%
373.22	Not knit	10.7%	9.3%	8%	65%
	Of man-made fibers:				
373.25	Knit	4¢+10.7%	2¢+9.3%	8%	71.5%
373.27	Not knit	([3])	([3])	([3])	45¢+65%
373.30	Other	8.7%	8.3%	8%	40%

[1] Rate effective prior to Jan. 1, 1982.
[3] Rate not reduced during the Tokyo round of the MTN.

Cotton, wool, and man made fiber neckties are ineligible for duty-free[2] entry under either the Generalized System of Preferences (GSP)[3] or the Caribbean Basin Initiative (CBI).[4] Certain neckties of silk or of vegetable fibers other than cotton are eligible for such duty-free entry under the CBI, subject to the conditions set forth in general headnote 3(g)(iii)(C)(2) of the TSUS. No perferential duty rates are provided for imported neckties from least developed developing countries (LDDC's).[5]

[2] The rates of duty in rate duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[3] To GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[4] The CBI affords nonreciprocal tariff preferences to developing countries in the Caribbean Basiun area to aid their economic development and to diversify and expand their production and exports. The CBI, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[5] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column 1 applies.

U.S. imports of neckties of cotton, wool, and man-made fibers are subject to restraint in accordance with the international agreement known as the Multifiber Arrangement (MFA).[6] Silk neckties, which make up a large portion of imports, are currently not subject to control under the MFA. For purposes of administration of the MFA, the other imported neckties (as are all textiles and apparel of the covered fibers) are included in categories which are, based on the terms of bilateral agreements, subject to quantitative limitations. The applicable categories are 359 (other cotton apparel), 459 (other wool apparel), and 659 (other man-made fiber apparel). No separate specific limits are currently in effect as to necktie imports, specific overall limits on these three MFA categories have been established only as to apparel from Poland, Taiwan, and the Philippines.

Tariff treatment under the proposed Harmonized System (HS).—The subject articles would be included in the following HS provisions (from the September 1984 draft of the converted schedule):

Heading	Article description	Rates of Duty	
		Col. 1—General	Col. 2
6117	Other made up clothing accessories, knitted or crocheted; knitted or crocheted parts of garments or of clothing accessories:		
6117.20.00	Ties, bow ties and cravats	8% ad val.	71.5% ad val.
6215	Ties, bow ties and cravats [not knitted or crocheted]:		
6215.10.00	Of silk or silk waste	8% ad val.	65% ad val.
6215.20.00	Of man-made fibers	26.5¢/kg + 13.5% ad val.	99.2¢/kg + 65% ad val.
6215.90.00	Of other textile materials	8% ad val.	52% ad val.

Structure of the domestic industry

In 1982, 164 firms produced men's and boys' neckwear,[7] down from a reported 198 firms in 1977, according to the Bureau of the Census, representing a decline of 17 percent. Most of the manufacturing was done in New York, California, Louisiana, and North Carolina, with New York alone accounting for almost 36 percent of the total value of neckwear shipments in 1982.

Average employment in the neckwear industry during the first 2 quarters of 1984 was 7,078 workers, down from an average of 7,115 workers during 1978 and representing a decline of less than 1 percent, according to the Bureau of Labor Statistics (BLS). BLS also reports that the average wages in the industry were $298.25 per week during the first 2 quarters of 1984 compared with $199.04 per week during the year 1978.[8]

The six largest necktie firms accounted for approximately 20 percent of domestic necktie shipments in 1984, according to an estimate by the Neckwear Association of America. Major firms and their headquarters locations are as follows: Wembly, Inc., New Orleans, Louisiana; Superba Cravats, Inc., Los Angeles, California; Randa Neckwear Corporation, New York, New York; Damon Creations Inc., New York, New York; Manhattan Accessories, New York, New York; France Neckwear, New York, New York.

Domestic production

U.S. necktie production during 1980–84, as estimated by the Neckwear Association of America, is shown in the following tabulation:

---

[6] Officially known as the Arrangement Regarding International Trade in Textiles, and sanctioned under the General Agreement on Tariffs and Trade (GATT), the MFA provides the legal framework for the regulation of the international trade in textiles and apparel through bilateral agreements. As of February 1985, the United States had bilateral agreements with the following MFA signatories: Brazil, China, Colombia, Dominican Republic, Egypt, Haiti, Hong Kong, Hungry, India, Indonesia, Japan, the Republic of Korea, Macau, Malaysia, the Maldives, Mexico, Pakistan, Peru, the Philippines, Poland, Romania, Singapore, Sri Lanka, Thailand, Uruguay, and Yugoslavia. The United States also had bilaterial restraint agreements with the following non-signatories: Costa Rica, Mauritius, Panama, and Taiwan.

[7] Includes production of scarves and mufflers.

[8] Employment and wage information are based on unpublished BLS data, and therefore may not be as reliable as their published data for other industries.

[Dollars in thousands]

Year	Quantity (1,000 dozen)	Value
1980	6,200	$337,000
1981	5,900	335,000
1982	5,700	325,000
1983	6,500	382,000
1984	6,500	393,460

U.S. imports

U.S. imports for consumption of neckties, according to official statistics of the Department of Commerce, were as shown in the following tabulation:

[Dollars in thousands]

Year	Quantity (1,000 dozen)	Value
1979	301	$12,091
1980	268	12,377
1981	373	15,631
1982	562	19,393
1983	948	27,228
1984	1,555	43,532

During 1984, all the imports came from countries eligible for the column 1 rate of duty, with the major sources shown in the following tabulation:

[Dollars in thousands]

Source	Quantity (1,000 dozen)	Value
Italy	945	$29,803
United Kingdom	62	2,476
Dominican Republic	112	2,144
West Germany	111	2,008
Spain	22	1,894
France	23	1,209

U.S. exports

U.S. exports of neckties, according to official statistics of the Department of Commerce, were as follows:

[Dollars in thousands]

Year or period	Quantity (1,000 dozen)	Value
1979	91	$1,156
1980	90	1,519
1981	121	2,095
1982	171	2,774
1983	155	2,519
1984	190	3,126

Apparent U.S. consumption

Estimated apparent consumption of neckties during the past 5 years was as shown in the following tabulation:

[Dollars in thousands]

Year	Quantity (1,000 dozen)	Value
1980	6,400	$347,900
1981	6,200	348,500
1982	6,100	341,600
1983	7,300	406,700
1984	7,865	433,866

Effect on revenues

If this legislation is enacted, duties on neckties would increase from the 1984 ad valorem equivalent (AVE) of 12.0 percent to the 1981 AVE of 15.3 percent. This change, if it had been in effect on January 1, 1984, would have resulted in increased customs revenues for 1984 of an estimated $1.4 million, based on 1984 imports. If the higher duties had been in effect during 1983, customs revenues would have increased by about $0.6 million. Based on the scheduled MTN duty reductions and the projected increase in imports, it is likely that the revenue gain would increase significantly in the future.

Technical comments

Although Commission staff understood that the legislation was intended to increase the applicable customs duties on neckties for a period of five years, under the draft language the higher duties would not expire but would instead represent a permanent tariff increase. If a temporary duty increase is desired, temporary tariff provisions should be created in part 1B of the Appendix to the TSUS setting forth the temporary duties. (If permanent duty changes are in fact intended, the provisions of the affected TSUS items in schedule 3 need not be stricken; instead, only the duty rates to be changed need to be deleted and the new rates set forth.) Suggested temporary provisions—which reflect the column 1 duty rates in effect during 1981—might appear as shown on the following page.

	"Men's and boys' neckties of textile materials:			
905.60	Ornamented (provided for in item 373.05, part 6B, schedule 3).	21% ad val.	No change	On or before 12/31/90.
	Not ornamented:			
905.61	Of vegetable fibers (provided for in item 373.10, part 6B, schedule 3).	16.5% ad val.	No change	On or before 12/31/90.
905.62	Of wool (provided for in item 373.15, part 6B, schedule 3).	37.5¢ per lb. +10.5% ad val.	No change	On or before 12/31/90.
	Of silk:			
905.63	Knit (provided for in item 373.20, part 6B, schedule 3).	10% ad val.	No change	On or before 12/31/90.
905.64	Not knit (provided for in item 373.2, part 6B, schedule 3).	16% ad val.	No change	On or before 12/31/90.
905.65	Of man-made fibers, knit (provided for in item 373.25, part 6B, schedule 3).	12¢ per lb. + 16% ad val.	No change	On or before 12/31/90.

905.66	Other, except not knit of man-made fibers (provided for in item 373.30, part 6B, schedule 3).	10% ad val	No change	On or before 12/31/90".

It should be noted that on January 1, 1990, under the above tariff items, the column 1 duty rates under items 373.05 through 373.30 would presumably be those rates which under the current schedule of reductions would be in effect on January 1, 1987. This would represent a substantial and sudden reduction in duty rates which could have an effect on trade patterns both during the period of increased duties and on domestic producers from 1991 onward.

In section 2, the comma after "warehouse" should be deleted and one inserted after "consumption".

GATT comments

To the extent that the most-favored-nation rates of duty on imported neckties are increased above the levels bound by the United States under Article II of the GATT, it should be noted that compensatory concessions may be demanded or other concessions withdrawn by our trading partners.

STATEMENT OF THE AMALGAMATED CLOTHING AND TEXTILE WORKERS UNION, AFL–CIO

The Amalgamated Clothing and Textile Workers Union (ACTWU), AFL–CIO, has a membership of approximately 360,000 workers who produce textile mill products and various items of men's and boy's clothing, including neckties.

ACTWU strongly supports passage of H.R. 209, legislation introduced by Congressman Roe (D–NJ) which would return the ad valorem and specific duties on necktie imports to the levels in effect as of January 1, 1981, for a period of five years.

Why is this legislation so significant to members of our union who are involved in the manufacture of neckwear? It is important for several reasons. First, the bill if enacted will provide some temporary relief from necktie imports which have grown from insignificant levels in 1980 to 20 percent of the U.S. market in 1984. In 1984 alone, neckwear imports increased by a whopping 64 percent, double the excessively high growth in overall textile and apparel imports. This rapid growth in imports has come about at a time when duties on imported neckties are being cut as a result of the Toyko Round (MTN) tariff negotiations. At the time of the negotiations, neckwear duties were cut more severely—ranging from 20 percent in some categories to 50 percent in other categories—than duties on most other apparel products. The deep cuts have certainly added to the industry's vulnerability to imports.

Second, the necktie industry, although part of the textile/apparel complex, is offered virtually no protection under the Multifiber Arrangement (MFA). More than half the neckties imported are of materials not covered by the MFA, such as silk. And Italy which accounted for a major portion of the growth in imports between 1983 and 1984—some 68 percent—is likewise not subject to restraints under our current MFA.

Third, ACTWU members who work in the textile/apparel industry—and the necktwear industry is no exception—are losing their jobs to imports. These are imports which have been encouraged by reduced rates of duties and lack of protection under the MFA. When a worker loses his job to imports the alternative is no job or possibly a lower paying service sector job.

Finally, H.R. 209 will bring some greatly needed stability to the industry, and time which it will use to adjust to imports and new market conditions. We urge the Subcommittee to report H.R. 209 favorably while there is still an opportunity to help the neckwear industry.

AMERICAN FIBER, TEXTILE, APPAREL COALITION,
Washington, DC, June 26, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
U.S. House of Representatives, Washington, DC.

DEAR MR. DOWLEY: The 21 members of the American Fiber, Textile, Apparel Coalition (AFTAC), membership list attached, support enactment of H.R. 209, legislation to return the ad valorem and specific duties on necktie imports to the levels in effect as of January 1, 1981, for a period of five years.

Because import penetration was relatively low for neckties during the time of the Tokyo Round negotiations, duties on neckwear categories were cut more severely than for other apparel products. When fully implemented, these cuts will range from a 20 percent reduction in some categories to more than a 50 percent reduction in others. As duties on neckwear are being phased down, imports have been increasing by substantial proportions. In 1984 alone, neckwear imports increased by more than 64 percent, double the extremely high growth in overall textile and apparel imports.

Temporarily restoring the pre-MTN duty levels on neckwear imports will offer some relief to an industry that is seeing its market become increasingly dominated by imported neckwear.

AFTAC urges the Trade Subcommittee to favorably report H.R. 209.

Sincerely,

G. STEWART BOSWELL,
Chairman.

MEMBERS OF AMERICAN FIBER/TEXTILE/APPAREL COALITION

Amalgamated Clothing & Textile Workers Union.
American Apparel Manufacturers Association.
American Textile Manufacturers Institute.
American Yarn Spinners Association.
Carpet and Rug Institute.
Clothing Manufacturers Association of America.
Industrial Fabrics Association International.
International Ladies Garment Workers Union.
Knitted Textile Association.
Luggage and Leather Goods Manufacturers of America.
Man-Made Fiber Producers Association.
National Association of Hosiery Manufacturers.
National Association of Uniform Manufacturers.
National Cotton Council.
National Knitwear Manufacturers Association.
National Knitwear & Sportwear Association.
National Wool Growers Association.
Neckwear Association of America.
Northern Textile Association.
Textile Distributors Association.
Work Glove Manufacturers Association.

MANHATTAN INDUSTRIES, INC.,
ACCESSORIES DIVISION,
New York, NY, June 21, 1985.

JOSEPH K. DOWLEY, Esq.,
Chief Counsel, Committee on Ways and Means,
U.S. House of Representatives, Washington, DC.

DEAR MR. DOWLEY: We, of Manhattan Accessories, producers of men's neckwear, have opened a new facility in Long Island City employing 400 people.

The importation of made-up neckties has dramatically affected our business in a negative way. Unless this trend is reversed, it will be difficult for any domestic neckwear producers to survive. We have, in the past few months, reduced our staff by 20% due to the above cause.

We feel very strongly about returning ad valorem and specific duties on necktie imports to the January 1, 1981 levels for a period of five years. While this will by no means solve all the problems created by the current surge in imports, it will at least

provide some counterbalance to the predatory pricing practices of overseas manufacturers who are flooding the marketplace with low-price imports.

If there is any information which you might need to help you in the passage of this bill, please do not hesitate to communicate with me.

I am,

Very truly yours,

HERBERT R. ARONSON,
Chairman and Chief Executive Officer.

STATEMENT OF THE NECKWEAR ASSOCIATION OF AMERICA, INC.

SUMMARY

The neckwear industry shares many characteristics with other segments of the U.S. textile/apparel industry. The noticeable difference between the neckwear industry and other segments of the textile/apparel industry is in its lack of import protection.

While the textile/apparel industry comes under the Multifiber Arrangement, the neckwear industry has virtually no protection from imports. Only a few of our products are of cotton, wool, or man-made fiber, the products covered by the MFA. More than half of the neckties imported are of materials not covered by the MFA, such as silk. And much of the remaining imports of wool or man-made fiber are from countries with which the United States does not have bilateral agreements, generally developed counties such as Italy.

This has left the necktie industry particularly vulnerable to imports. Between 1980 and 1984, imports of neckties captured almost 20 percent of our market. While overall textile/apparel imports increased by 32 percent in 1984, neckwear imports increased by more than 64 percent.

Pending before this Committee is H.R. 209 to return the duties on necktie imports to the levels in effect as of January 1, 1981, for a period of five years. Our industry strongly supports enactment of this temporary legislation. We believe that this temporary respite from the tremendous import growth will prevent imports from overwhelming domestic necktie producers and give them an opportunity to improve their competitive position. We urge the Committee to report out H.R. 209 favorably.

STATEMENT

The Neckwear Association of America is the trade association for domestic manufacturers of neckwear. Our businesses are concentrated in New York City, which accounts for more than one-third of industry employment, and in New Jersey, Louisiana, Pennsylvania, Missouri, North Carolina, Texas, Massachusetts, California, and Michigan.

The member firms of the Neckwear Association strongly support legislation introduced by Congressman Robert Roe (D-NJ), H.R. 209, which would return the ad valorem and specific duties on necktie imports to the levels in effect as of January 1, 1981, for a temporary period of five years. We support H.R. 209 because conditions in our industry are rapidly deteriorating as imports increase at an alarming rate. This legislation offers some hope of relief from the alarming growth in imports.

In 1980, imports had about 4 percent of our market. By 1984, imported neckties had captured almost 20 percent of our market (See Table I) and import penetration has continued to grow in 1985. While overall textile-apparel imports increased by 32 percent in 1984, neckwear imports increased by 64 percent over the same period, double the import growth for all textiles and apparel.

Necktie imports from Italy present a particular problem. Italy is the largest supplier of neckties to the U.S. market, accounting for 61 percent of total necktie imports. Imports from Italy accounted for a major portion of the growth in necktie imports between 1983 and 1984, as imports from Italy rose by 68 percent during this period. The U.S. has no bilateral agreement under the Multifiber Arrangement (MFA) with Italy to control the growth of imports nor is there any real likelihood that there will be one in the future. Thus, the necktie industry is disadvantaged to an extent not experienced by any other textile or apparel sector.

Furthermore, only a few neckwear products are of cotton, wool or man-made fibers, the products covered by the MFA. More than half the neckties imported are of materials not covered by the MFA, such a silk. While our industry is part of the textile/apparel complex and shares many characteristics of the rest of the textile/apparel industry such as labor intensity and minimal start up costs, it does not share the protection of the MFA. Moreover, while the average tariff rate last year

on clothing imports was in excess of 21 percent, the average duty on necktie imports was just 12 percent.

The tremendous growth in imports has caused a substantial loss in market share held by U.S. producers. In 1984 we had projected a healthy growth in domestic consumption of neckties. We had expected domestic production to share in at least some of that growth. But, earlier predictions that domestic necktie shipments would grow by 15 percent in 1984 (compared to import growth of 64 percent) were far too optimistic due to very soft Fall and Christmas selling periods. Domestic industry sales remained static or declined slightly in 1984 compared to 1983 levels while, on the other hand, imports jumped by 64 percent. Imports as a percent of domestic shipments approached 24 percent in 1984 (See Table 2), or about double the 15 percent import-to-domestic shipment ratio in 1983.

A large portion of this import growth has come about at a time when staged tariff reductions on neckties are being implemented as a result of the Multilateral Trade Negotiations (Tokyo Round) tariff cuts. When fully implemented, these cuts will range from a 20 percent reduction in some necktie categories to more than a 50 percent reduction in the former duty rate in other necktie categories.

Every necktie category, from silk to man-made fiber, has experienced a rise in imports and the industry expects this situation to worsen as necktie duties continue to phase down as the staged duty reductions are implemented through 1987.

Our industry is not a capital intensive one. Our manufacturing process, like other apparel products, is labor intensive. Production start-up costs are minimal. Foreign producers can move swiftly into our market and rapidly increase exports of neckties to the United States in a very short period of time. The duty cuts on neckties scheduled to occur through 1987 will provide an added inducement to such imports and, in general, will result in increased imports from all sources, leading to the further erosion of our domestic market.

The neckwear industry is not a large industry. It is an industry composed mostly of many small establishments which generally employ fewer than 20 workers. The industry is a source of employment for people who have difficulty finding alternative employment because they lack education, skills or mobility. The industry provides work for women and minorities, and it provides entry level jobs for those who are new to the workforce. If imports continue to rise at current rates, jobs in our industry for such people will no longer exist.

The neckwear industry has available to it few options to fight the import problem. Some have suggested that the industry file an "escape clause" petition to get relief from imports by demonstrating that the industry has been seriously injured by increasing imports. There are some very valid reasons why we are reluctant to pursue this route. It would take eight months between the time we would file such a case and a final decision were to be reached, during which time imports, even at current rates, would be swamping our market. It simply takes too long to get needed action in the face of rapidly increasing imports. Further, recent decisions by the International Trade Commission and the President, where five of the last six escape clause cases resulted in no relief to the petitioning industry, leave us concerned about what results would be reached in the case of neckwear.

Because of the unprecedented increase in necktie imports which we could not have anticipated during the MTN negotiations when necktie duties were severely cut, we are asking Congress to return these duties to what they were in 1981 for a period of five years while the industry has time to adjust. The import situation, if not temporarily cooled, will overwhelm domestic necktie producers. Stabilizing the duties on necktie imports for a brief period as provided in H.R. 209 would help calm the waters in our industry.

The Neckwear Association urges the Subcommittee on Trade to approve Congressman Roe's bill, H.R. 209 as quickly as possible. We believe it is a reasonable approach to deal with a growing problem of alarming proportions to our industry.

TABLE 1.—THE U.S. MARKET FOR NECKTIES, 1980–84

[In thousands of dozen]

	Domestic shipments [1]	Imports	Exports	Apparent domestic consumption	Imports as a percent of apparent domestic consumption
1980	6,200	269	90	6,378	4.2
1981	5,900	373	121	6,152	6.1

TABLE 1.—THE U.S. MARKET FOR NECKTIES, 1980–84—Continued

[In thousands of dozen]

	Domestic shipments [1]	Imports	Exports	Apparent domestic consumption	Imports as a percent of apparent domestic consumption
1982	5,700	562	171	6,091	9.2
1983	6,500	948	155	7,293	13.0
1984 (estimated)	6,500	1,555	190	7,865	19.8

[1] Estimated by the Neckwear Association of America, Inc., based on a survey of its members.

Source: Neckwear Association of America, Inc. and U.S. Department of Commerce data.

TABLE 2. *The ratio of U.S. imports to U.S. shipments of neckties (in terms of dozens), 1980–84*

[In percent]

1980	4.3
1981	6.3
1982	9.9
1983	14.6
1984 (estimated)	23.9

Source: See table 1.

H.R. 431

To direct the President to impose certain limitations on the amount of milk protein products that may be imported into the United States

See statements of American Farm Bureau Federation, Paul A. Drazek; and California Farm Bureau Federation, Henry J. Voss, under H.R. 110.

U.S. International Trade Commission

Section-by-section analysis

This legislation would require the President to establish quantitative restrictions on annual U.S. imports of casein, caseinates, lactalbumin, whey protein concentrates, or mixtures containing not less than 5 per centum of any of these products. These articles (enumerated in section 4 of the legislation) are among the few products derived from cow's milk which are not subject to quotas imposed under section 22 of the Agricultural Adjustment Act.

Section 2(a) would direct the President to limit, by proclamation, imports of such products in any calendar year (or portion of a calendar year in the case of the year of enactment) to an amount equal to 50 percent of the average of the quantity of such milk protein products annually imported into the United States during the period beginning January 1, 1979, and ending December 31, 1983 (or, in the case of a portion of a calendar year, a proportionately lesser quantity). Section 2(b) states that the proclamation establishing the quota would be considered a proclamation which is issued by the President under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) and which meets the requirements of such section. Section 2(c) would make the effective period of the proclamation begin on the day after enactment of the act and end December 31, 1988.

Under the terms of section 3, to implement the proclamation, the Secretary of Agriculture would establish an import licensing system for foreign milk protein products which would (1) give first preference to those importers or users who establish that their importation or utilization of such products is for purposes for which no substitutes are available; (2) give second preference to those who establish that their importation or utilization of such products is for purposes for which domestically produced skim milk or skim milk solids cannot be substituted; and (3) give third preference to those not qualifying for an allocation under (1) or (2) above.

Background and justification

Description and uses.—The subject products are all proteins of milk. Casein and mixtures of casein (caseinates, or water-soluble forms of casein) comprise the great bulk of the imports affected by the proposed legislation. Casein, one of the most complete proteins known, constitutes about 80 percent by weight of the protein of milk. When butter is made from whole milk, the liquid portion that remains (skim milk) can either be dried into nonfat dry milk or be processed into casein. When skim milk is processed into casein, casein whey remains.

Lactalbumin constitutes about 20 percent by weight of the protein of milk and generally has a protein content of at least 75 percent. Lactalbumin of foreign origin is made from casein whey; however, in the United States lactalbumin is reported to be made from cheese whey. The proper classification of these articles has until very recently been hard to ascertain, due to product variation and to tariff descriptions. On October 1, 1981, the U.S. Customs National Import Specialist for dairy products issued informal advice to various U.S. ports of entry and specified that, for tariff classification purposes, lactalbumin then classified as "other albumen" in Tariff Schedules of the United States (TSUS) item 190.15 [1] should contain at least 75 per-

---

[1] Now classified in TSUS item 118.40 if containing 40 percent or more protein by weight. (Section 123 of Trade and Tariff Act of 1984, 98 Stat. 2955. This section also created items 118.35 and 118.45, discussed below.)

cent protein by weight. The issuance further said that products containing less than 75 percent protein should be considered as whey protein concentrate and classified as "other edibile preparations" under TSUS item 183.05 (now provided for in item 118.35, whey protein concentrate). Imports of whey protein concentrate and lactalbumin are not subject to section 22 quotas.

Domestic whey protein concentrate is concentrated from cheese whey, the liquid portion that remains after cheese is made from whole milk. On September 4, 1981, the Food and Drug Administration issued regulations setting a minimum protein content of not less than 25 percent by weight for whey protein concentrate; no maximum is designated, but it generally has a protein content of about 34 percent. Although whey protein concentrate generally is recognized in the trade as having a lower protein content than lactalbumin, the terms by which the two products are identified often have been used interchangeably. The term "mixtures containing not less than 5 per centum of any product" (casein, caseinates, lactalbumin, or whey protein concentrates) can encompass a wide array of products, some of which (or some component of which) might be subject to quotas.

Prior to the 1960's, casein was used chiefly for industrial purposes such as in the manufacture of glues, paper coatings, paints, and plastics. During the early 1970's, however, the bulk of the usage of casein and of mixtures of casein shifted to food and feed. Based on data collected by the Commission in Investigation No. 22-44,[2] about 85 percent of the casein and mixtures of casein was used in food and feed in 1980 and 15 percent was used for industrial purposes. Of that used for food and feed, about 31 percent was used for the production of imitation cheese, 16 percent for pet foods and animal feeds, and 10 percent for coffee whiteners. Lactalbumin was principally used as a protein complement in cereal and breakfast foods, pet foods, and high-protein and diet foods. Whey protein concentrates of domestic origin are used in articles such as bakery products, miscellaneous high-protein and diet foods, and animal foods. The imported product, which is higher in protein and therefore lower in lactose, is used in a wide variety of foods where functional properties such as whipping or foaming are desired, in certain medical applications requiring low lactose levels, and in a number of foods to fortify their nutrtitional values. Lactalbumin and whey protein concentrate appear to be essentially interchangeable in many uses. Price probably is the determining factor in decisions regarding the use of these products in many applications. During the investigation, a number of firms reported that in some uses lactalbumin, whey protein concentrate, casein, and nonfat dry milk were all competitive as a source of protein.

Imports of casein, mixtures of casein, lactalbumin, and whey protein concentrate from countries or areas which have not been declared free of rinderpest and foot-and-mouth diseases by the U.S. Secretary of Agriculture are subject to regulations of the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) (9 CFR 94.16). Essentially, imports from countries or areas not declared free of the diseases, as well as products made from such imports, are not to be used in animal feed in the United States, except under limited circumstances set forth in the regulations issued by APHIS. However, imports from such countries or areas may be used in human foods in the United States because the virus is not injurious to human health. These imports may also be used for industrial purposes.

Justification.—During the 1980's, numerous attempts have been made on behalf of domestic dairy farmers to have imports of the subject milk protein products limited under section 22 of the Agricultural Adjustment Act. These attempts have not been successful.

In introducing the legislation, the sponsor reported that subsidized imports of casein have displaced large quantities of domestically produced nonfat dry milk in every year since restrictions on these imports were rejected by the Congress in the 1981 farm bill debate.[3] Because the Federal Government must purchase surplus dairy products under the price-support program for milk, according to the sponsor of the Senate version, the taxpayers must pay for this displacement which, in 1983, amounted to about $350 million. Adoption of the legislation was described as a strong step toward fair trade, lower Federal spending, and fair treatment for the hard-pressed American dairy farmer.

---

[2] *Casein, Mixtures in Chief Value of Casein, and Lactalbumin: Report to the President . . . on Investigation No. 22-44 . . .*, USITC Publication 1217, January 1982.

[3] E 20, *Congressional Record* of January 3, 1985.

Prior investigations

On January 15, 1982, the Commission submitted to the President its report on investigation No. 22-44, conducted under section 22 of the Agricultural Adjustment Act (7 U.S.C. sec. 624), on casein, mixtures in chief value of casein, and lactalbumin. On the basis of the information developed in the course of the investigation, the majority of the Commission found that casein, mixtures in chief value of casein, and lactalbumin (then provided for in items 493.12 493.17, and 190.15, respectively, of the TSUS) are not being, and are not practically certain to be, imported into the United States under such conditions and in such quantities as to render to tend to render ineffective, or materially interfere with, the price-support program for milk undertaken by the USDA, or to reduce substantially the amount of any product processed in the United States from domestic milk. On April 9, 1982, in accordance with the Commission's recommendation, it was reported that the President would take no futher action with respect to the imported products. In that investigation, imports of casein comprised most of the quantity and value of the imports examined by the Commission.

Comparison with present law

As noted above, effective November 14, 1984, section 123 of the Trade and Tariff Act of 1984 reclassified certain milk protein products, including whey protein concentrate, lactalbumin, and milk concentrate. (The latter product formerly was provided for as a mixture in chief value of casein, but it is not enumerated in this legislation.) The amendment did not involve changes in the rates of duty or make the products subject to quotas under section 22 of the Agricultural Adjustment Act.

Tariff treatment under the TSUS.—The subject products are classified in the following TSUS items: item 118.35 (whey protein concentrate), item 118.40 (lactalbumin), item 493.12 (casein), and item 493.17 (mixtures of casein). The current rates of duty [4] for these products are shown in the following tabulation:

TSUS item No.	Description	Col. 1 rate of duty	Col. 2 rate of duty
118.35	Whey protein concentrate	10% ad val	20% ad val.
118.40	Lactalbumin	Free	Free.
493.12	Casein	Free	Free.
493.17	Mixtures in chief value of casein (other than a product described in item 118.45).	0.2¢ per lb	5.5¢ per lb.

These rates of duty were not reduced as a result of the Tokyo round of the Multilateral Trade Negotiations (MTN), and there are no LDDC concessionary rates for these tariff items.[5] However, all of the covered products are eligible for duty-free entry under the Caribbean Basin Initiative (CBI); [6] and the mixtures covered by item 493.17 are eligible for duty-free entry under the Generalized System of Prefer-

[4] The rates of duty in rate of duty column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all counteries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Initiative (CBI), or under the "LDDC" rate of duty column.

The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[5] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column 1 applies.

[6] The CBI affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBI, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

ences (GSP).[7] The ad valorem equivalent of the column 1 rate of duty for imports of mixtures of casein under item 493.17 averaged 0.2 percent in 1984. A small quantity of imports of the subject products came from countries or areas subject to column 2 rates of duty.

Tariff treatment under the proposed Harmonized System (HS).—The tariff classifications for the subject products under the HS are shown in the following tabulation:

TABLE 2.—CERTAIN MILK-PROTEIN PRODUCTS: U.S. RATES OF DUTY, BY HS SUBHEADINGS

HS heading	Article description	Col. 1—General rate of duty [1]	Col. 2 rate of duty
	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included:		
	Whey, whether or not concentrated or containing added sugar or other sweetening matter:		
0404.10.40	Dried [2]	3.3¢/kg	6.6¢/kg.
	Casein, caseinates and other casein derivatives; casein glues:		
3501.10.00	Casein	Free	Free.
	[Other:]		
3501.90.50	Other	0.44¢/kg	12.1¢/kg.
	Albumins, albuminates and other albumin derivatives:		
3502.90.00	Other	Free	Free.

[1] To be effective upon implementation of the HS. From September 1984 draft.
[2] Certain articles provided for herein may be subject to quotas. See ch. 99 and statistical note 1 to this chapter.

Structure of the domestic industry

Whey protein concentrate is produced by an estimated 20 to 30 firms in the United States. Production is believed to be concentrated in Wisconsin, California, New York, and Vermont, where the production of cheese is significant. Thomas Technical Services of Greenwood, Wisconsin is reported to be a large producer of whey protein concentrate. According to information furnished by the Whey Products Institute, 130 North Franklin Street, Chicago, Illinois, lactalbumin has been produced by several U.S. firms only during the past few years. One of the largest producers is Express Foods of Fairfax, Vermont. Other producers are located in California and Wisconsin, according to the Whey Products Institute.

Casein is not produced in the United States; caseinates are produced in the United States, but only from imported casein. Therefore, except as noted earlier, the domestic industries which would be most directly affected by the legislation are those using casein and mixtures of casein as ingredients in their product mix.

Among the affected industries are those producing such foods as imitation cheese, coffee whiteners, bakery products, frozen desserts, whipped toppings, and breakfast and diet foods; those that produce calf milk replacer and other animal feeds; those that produce medical/pharmaceutical products; and those that produce adhesives and paper products. Among the large companies involved are Anderson Clayton Foods, P.O. Box 6165, Dallas, Texas 75222; Dean Foods Company, 1126 Kilburn Avenue, Rockford, Illinois 61101; Borden Foods, 180 East Broad Street, Columbus, Ohio 4312; L. D. Schreiber Cheese Co., Inc., P.O. Box 610, Green Bay, Wisconsin 54309; the Fisher Cheese Company, P.O. Box 409, Wapakoneta, Ohio 45895; and National Casein Sales, 601 West 80th Street, Chicago, Illinois 60620.

Data are not available on the sales of products containing casein or mixtures of casein by these companies or on their employment. However, some of them are among the largest food-processing conglomerates in the United States, and some are multinational firms.

---

[7] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

Domestic production

According to the USDA, production of whey protein concentrate increased from 70.6 million pounds in 1982 to 86.3 million pounds in 1983 and to 95.1 milion pounds in 1984. Although data are not available, production of lactalbumin is believed to be much smaller than the production of whey protein concentrate.

U.S. production of casein declined precipitously in the early 1950's following the establishment of the price support program for milk and butterfat as required by the Agricultural Act of 1949. Under this program, the USDA established a purchase price for nonfat dry milk (as well as for butter and cheddar cheese). As a result, the domestic supply of skim milk used for the production of casein was subsequently diverted to the production of nonfat dry milk, because domestic production of casein became less profitable than the production of nonfat dry milk. Since the late 1960's, imports of casein have been the sole source of supply for the United States. Caseinates are produced by a few firms in the United States, but only from imported casein.

U.S. imports

Imports of whey protein concentrates are estimated to have been in the range of 550,000 to 800,000 pounds (valued from $1.0 million to $1.5 million) annually in recent years, with only a slight upward trend occurring. The products are imported primarily from New Zealand, with lesser amounts from Australia and Denmark. The principal importer is New Zealand Milk Products, Inc., Petaluma, California 94952.

During 1980–84, U.S. imports of casein ranged from 112 million pounds (1981) to 160 million pounds (1984) (table 1) and showed an upward trend. New Zealand, Ireland, Australia, and France have been the principal sources of such imports. In 1984, New Zealand supplied 49 percent of the imports and Ireland 24 percent. Imports from column 2 countries (believed to be solely imports from Poland) have been small. Among the principal U.S. importers of casein are: New Zealand Milk Products, Inc., Petaluma, California 94952; Western Dairy Products, San Francisco, California 60000; Erie Casein Co., Inc., Erie, Illinois 61250; Fisher Cheese Company, Inc., Wapakoneta Ohio 45895; and National Casein Sales, Chicago, Illinois 60620.

During 1980–84, U.S. imports of mixtures of casein ranged from 16 million pounds (1981) to 32 million pounds (1984) (table 2) and showed an upward trend. New Zealand, the Netherlands, and Denmark have been the principal sources of these imports; there were no imports from column 2 countries. In 1984, New Zealand supplied 50 percent of the imports, the Netherlands supplied 24 percent, and Denmark supplied 12 percent. Among the principal U.S. importers of mixtures of casein are: New Zealand Milk Products, Petaluma, California 94952; DeZann, Inc., Hackensack, New Jersey, and Erie Casein Co., Inc., Erie, Illinois 61250.

During 1980–84, U.S. imports of albumen, virtually all of which are believed to be lactalbumin, ranged from 1.7 million pounds (1980) to 3.4 million pounds (1984) (table 3) and showed no discernible trend. New Zealand supplied most of the imports during the period; there were no imports from column 2 countries.

U.S. exports

U.S. exports of the products described in the legislation have consisted almost exclusively of mixtures of casein, all of which have been made from imported casein. During 1980–84, exports ranged from 596,000 pounds (1982) to 2.8 million pounds (1984) (table 4). About 82 percent of the 1984 exports went to Mexico. Data are not available on the principal exporters of mixtures of casein.

Apparent U.S. consumption

During 1980–84, apparent U.S. consumption of casein and mixtures of casein increased irregularly from 139 million pounds to 189 million pounds (table 5).

Imports of albumen, not specially provided for, as shown in table 3, are believed to consist almost exclusively of lactalbumin. Data are not available on production or exports of lactalbumin, but they are believed to be small. Thus, imports, which ranged from 1.7 million pounds to 3.4 million pounds annually during 1980–84, are believed to be nearly equivilent to consumption.

Imports of whey protein concentrate are estimated to have average from 550,000 to 800,000 pounds annually in recent years. Exports and year-end stocks, if any, are probably small. It appears, therefore, that domestic production of the product, which increased from about 71 million pounds in 1982, to 95 million pounds in 1984, is approximately equivalent to consumption.

Effect on revenue

Since U.S. Imports of casein and lactalbumin enter free of duty, enactment of this legislation would not effect customs revenues as to these products. However, the amount of revenue collected on imports of whey protein concentrate on mixtures of casein could be affected. Imports of whey protein concentrate are estimated to have been valued from $1.0 million to $1.5 million annually in recent years, and duties collected were $100,000 to $150,000. If the legislation had been in effect during 1984, imports of this product would have been curtailed by 50 percent and the loss of revenue would have ranged from $50,000 to $75,000. Imports of mixtures of casein averaged about 23 million pounds during 1979–83. If the legislation had been in effect during 1984, imports for that year (32 million pounds) would have been limited to 50 percent of the 1979–83 average, or to 11.5 million pounds. The loss of revenue on imports of mixtures of casein would have totaled about $41,000 in 1984. Thus, the combined loss of revenue for the two products, whey protein concentrate and mixtures of casein, would have ranged from $91,000 to $116,000.

Technical comments

The legislation does not define the term "whey protein concentrates" or "lactalbumin"; nor does it acknowledge that these articles are provided for in TSUS items 118.35 and 118.40, respectively, effective November 14, 1984.[8] Nor does it take into account the possibility that some of the articles in TSUS item 118.45, also effective November 14, 1984, might have been included as casein or mixtures in chief value of casein prior to that date. Articles currently provided for in TSUS item 118.45 are not included in the legislation, and it is not clear if this omission is intended. Also, the term "mixtures containing not less than 5 per centum of any product referred to in paragraphs (1) through (4) [casein, casinates, lactalbumin, or whey protein concentrates]" might apply to articles classifiable in a number of items in the TSUS, some of which are already subject to quotas under section 22. Thus, it would appear that the Customs Service would experience considerable difficulty in administering quantitative restrictions on such a broad spectrum of products where the applicable TSUS items are not enumerated.[9] In addition, the legislation is unclear as to whether the quota is to apply separately to each product, or instead to the aggregate group of such products.

Further, the legislation does not indicate the criteria that importers or users of the subject articles would be able to use in establishing to the Secretary of Agriculture whether they are eligible for preferences for import licenses. Finally, an effective date provision should probably be added.

GATT considerations

Similar legislation was extensively debated in the Senate from March 13 through March 24, 1981.[10] A principal issue during this debate was whether the Congress could, by statute, direct the President to proclaim a quota unless the President had previously complied with all of the procedural prerequisites for a section 22 proclamation.[11] It was argued that these amendments were inconsistent with the statutory requirements of section 22 and violated our obligations to GATT trading partners (to follow these procedures) undertaken by the United States when the GATT granted a waiver for section 22 fees and quotas in 1955.[12] Certain USDA legal opinions

---

[8] The committee may wish to define whey protein concentrates in accordance with the Customs practice described earlier, as lactalbumin containing less than 75 percent protein by weight and classifiable in TSUS item 118.35; that containing more than 75 percent protein by weight and classifiable in TSUS item 118.40 might be defined as lactalbumin.

[9] The committee may wish to remedy this ambiguity by (1) deleting "milk protein products includes [1] casein, [2] caseinates, [3] lactalbumin, [4] whey protein concentrates, and [5] mixtures containing not less than 5 per centum of any products . . ." and (2) by inserting the following new sentence on page 3, line 6, sec. 4.—

For purposes of this Act, the term "milk protein products" shall include only casein, caseinates, lactalbumin, and whey protein concentrates, or mixtures in chief value, and containing not less than 5 per centum by weight, of such products.

[10] These amendments, offered by Senator Melcher, were designated Senate Unprinted Amendment No. 14, and Senate Amendment No. 8, to S. 509, 97th Cong., A bill to amend section 201 of the Agricultural Act of 1949, as amended, to delete the requirement that the support price of milk be adjusted semiannually.

[11] Imposition of fees and/or quotas by proclamation under section 22 normally occurs only after an investigation by the U.S. International Trade Commission as requested by the President upon the advice of the USDA. USDA advice is based on their belief that imported products materially interfere with, or render ineffective, the Department's price support program for domestic agricultural products.

[12] Specifically, the United States had sought and obtained a waiver of U.S. obligations, under Articles II and XI of the GATT, for fees and quotas imposed pursuant to section 22.

were cited for the proposition that the issue of casein imports "as to whether they displace domestic dairy products to a significant degree must be addressed by other than legislative means which would cause serious problems under the . . . GATT." The General Counsel to the Senate Committee on Agriculture, Nutrition and Forestry was also quoted (by Senator Jepsen) as follows:

"After consultation with the General Counsel's Office, the U.S. Department of Agriculture and the Office of the U.S. Trade Representative, it is my conclusion that the proposed amendment would not be consistent with article XI of the GATT and would not be within the waiver for section 22 actions."

Supporters of the amendments argued, *inter alia*, that section 22 stands in a superior position to any trade agreement or other international agreement,[13] and that Congress has never explicity (nor implicitly) ratified the GATT. They also noted previous instances of specific Congressional directives to the President on the use of section 22, citing the Trade Agreement Act of 1979[14] and the Agricultural Act of 1956.[15]

The proposed amendments were ultimately rejected by the Senate. Again, when TSUS items 118.35–.45 were established for recently developed dairy products under the Trade and Tariff Act of 1984 (sec. 123 of the conference report), the articles included therein were not made subject to section 22 quotas.

It may be observed that because the President is not afforded any discretion as to the quota level, there is no need for the proclamation cited in section 2. The effective date for such restriction could be specified in the legislation.

TABLE 1.—CASEIN: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
N Zeal	65,883	58,308	73,204	56,062	78,735
Ireland	23,730	19,685	39,335	35,145	37,823
Austral	14,743	16,051	15,059	16,083	13,853
France	7,771	5,217	13,789	11,091	13,640
U King	5,411	2,497	3,415	3,683	4,382
Poland	3,506	2,769	1,577	4,363	4,918
Norway	1,970	2,881	2,413	2,075	2,235
Fr Germ	461	1,154	1,060	2,573	1,221
All other	5,273	3,532	4,099	2,464	2,768
Total	128,737	112,095	153,952	133,539	160,177
	Value (1,000 dollars)				
N Zeal	67,386	74,485	95,774	67,453	79,214
Ireland	31,260	28,316	53,260	43,636	38,434
Austral	15,427	21,008	18,304	16,918	12,946
France	9,695	6,230	15,933	12,229	12,631
U King	7,230	3,498	4,434	4,447	4,934
Poland	3,571	2,990	1,664	3,596	3,089
Norway	1,872	3,437	3,074	2,025	2,231
Fr Germ	574	1,305	1,263	2,664	1,052
All other	5,914	4,392	4,589	2,712	2,371
Total	142,929	145,662	198,295	155,682	156,902

[13] The Commission majority in the most recent casein investigation, noted (in another context) that " . . . section 22(f) makes it clear that no trade agreement or other international agreement shall be applied in a manner inconsistent with the requirements of section 22." Inv. No. 22–44, USITC Pub. No. 1217 at 8 (fn. 10), January 1982.

[14] The President was directed to expand the section 22 quotas applicable to certain cheeses in section 701(a) of the Act. A similar directive to the President, with respect to chocolate crumb quotas, was enacted in section 703 of the Act. In each instance the 1979 Act states that such proclamation "shall be considered a proclamation which is issued by the President pursuant to section 22 . . . and which meets the requirements of such section."

[15] Section 202(a) of this Act directed Presidential action under the authority of section 22 with respect to imports of extra long staple cotton to remove the exemption from the quota for cotton having a staple length of 1-11/16 inches or longer. The directive was implemented by Pres. Proc. 3145, July 6, 1956.

TABLE 1.—CASEIN: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84—Continued

Source	1980	1981	1982	1983	1984
	Unit value (per pound)				
N Zeal	$1.02	$1.28	$1.31	$1.20	$1.01
Ireland	1.32	1.44	1.35	1.24	1.02
Austral	1.05	1.31	1.22	1.05	0.93
France	1.25	1.19	1.16	1.10	0.99
U King	1.34	1.40	1.30	1.21	0.99
Poland	1.02	1.08	1.06	0.82	0.63
Norway	0.95	1.19	1.27	0.98	1.00
Fr Germ	1.24	1.13	1.19	1.04	0.86
All other	1.12	1.24	1.12	1.10	0.86
Average	1.11	1.30	1.29	1.17	0.98

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 2.—MIXTURES OF CASEIN: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
N Zeal	10,208	7,107	11,989	12,318	15,967
Nethlds	2,449	1,729	4,572	6,038	7,820
Demark	3,865	2,845	1,930	2,384	3,986
Ireland	256	193	827	787	1,380
Austral	3,027	2,269	1,407	2,723	1,473
U King	164	81	799	404	558
All other	2,519	1,506	1,275	1,335	952
Total	22,489	15,729	22,800	25,989	32,135
	Value (1,000 dollars)				
N Zeal	13,882	10,969	16,468	14,834	15,977
Nethlds	3,264	2,698	6,055	8,121	9,060
Demark	5,253	4,257	2,587	2,826	4,481
Ireland	378	323	1,171	1,083	1,529
Austral	3,838	3,607	1,890	3,415	1,477
U King	238	128	974	649	720
All other	2,505	2,003	1,563	1,580	1,052
Total	29,359	23,984	30,707	32,508	34,298
	Unit value (per pounds)				
N Zeal	$1.36	$1.54	$1.37	$1.20	$1.00
Nethlds	1.33	1.56	1.32	1.35	1.16
Demark	1.36	1.50	1.34	1.19	1.12
Ireland	1.47	1.68	1.42	1.38	1.11
Austral	1.27	1.59	1.34	1.25	1.00
U King	1.45	1.58	1.22	1.61	1.29
All other	0.99	1.33	1.23	1.18	1.11
Average	1.31	1.52	1.35	1.25	1.07

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 3.—ALBUMEN: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
N Zeal	1,650	2,714	1,497	1,606	2,994
Nethlds	68	5	3	26	265
Denmark	1	17	201	88	87
Fr Germ	13	14	155	4	69
Sweden	0	0	(1)	0	(1)
Mexico	6	6	0	0	5
All other	10	290	5	31	3
Total	1,749	3,044	1,861	1,756	3,423
	Value (1,000 dollars)				
N Zeal	1,660	3,339	2,388	2,254	3,509
Nethlds	297	174	50	145	441
Denmark	3	33	402	164	171
Fr Germ	26	22	222	7	87
Sweden			8		13
Mexico	232	132			10
All other	240	467	23	55	5
Total	2,457	4,168	3,092	2,625	4,237
	Unit value (per pound)				
N Zeal	$1.01	$1.23	$1.59	$1.40	$1.17
Nethlds	4.35	36.67	18.73	5.54	1.67
Denmark	2.16	1.97	2.00	1.86	1.96
Fr Germ	2.07	1.65	1.43	1.67	1.27
Sweden			223.32		838.63
Mexico	36.45	23.90			2.00
All other	23.70	1.61	4.15	1.79	1.84
Average	1.40	1.37	1.66	1.50	1.24

[1] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 4.—CASEIN AND MIXTURES OF CASEIN: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Mexico	265	287	81	760	2,338
Canada	16	144	72	191	136
Spain	0	0	0	0	36
Fr Germ	64	27	17	45	58
U King	203	37	38	57	20
India	2	1	1	5	17
Rep Saf	6	6	4	31	26
Austral	4	1	(1)	0	23
All other	403	386	383	189	185
Total	963	889	596	1,278	2,840
	Value (1,000 dollars)				
Mexico	691	665	309	1,015	2,581
Canada	54	228	117	261	190
Spain					128
Fr Germ	176	90	67	173	114

TABLE 4.—CASEIN AND MIXTURES OF CASEIN: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84—Continued

Market	1980	1981	1982	1983	1984
U King	678	83	144	228	90
India	7	6	8	33	74
Rep Saf	33	45	32	80	69
Austral	21	6	2	.....	47
All other	915	970	1,005	478	376
Total	2,574	2,093	1,684	2,268	3,669
	Unit value (per pound)				
Mexico	$2.61	$2.32	$3.82	$1.34	$1.10
Canada	3.30	1.59	1.62	1.37	1.39
Spain	.....	.....	.....	.....	3.52
Fr Germ	2.73	3.29	4.06	3.87	1.95
U King	3.35	2.26	3.79	3.96	4.40
India	3.77	5.58	5.70	6.26	4.41
Rep Saf	5.89	7.65	8.81	2.60	2.61
Austral	4.63	4.30	4.57	.....	2.07
All other	2.27	2.51	2.62	2.53	2.04
Average	2.67	2.36	2.83	1.77	1.29

[1] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 5.—CASEIN AND MIXTURES OF CASEIN: U.S. EXPORTS, IMPORTS FOR CONSUMPTION, INVENTORY CHANGE, AND APPARENT CONSUMPTION, 1980–1984 [1]

Period	Exports	Imports	Inventory buildup or (decrease) [2]	Apparent consumption	Ratio (percent) of imports to consumption
	Quantity (1,000 pounds)				
1980	963	152,159	12,263	138,933	110
1981	889	127,823	(10,000)	136,934	93
1982	596	176,752	[3]	176,156	[4] 100
1983	1,278	159,528	[3]	158,250	[4] 101
1984	2,840	192,312	[3]	189,472	[4] 101
	Value (1,000 dollars)				
1980	2,574	173,320	13,968	156,778	111
1981	2,093	169,646	(13,000)	180,553	94
1982	1,684	229,002	[3]	227,354	[4] 101
1983	2,268	188,190	[3]	185,922	[4] 101
1984	3,669	191,200	[3]	185,531	[4] 102
	Unit value (per pound)				
1980	$2.67	$1.14	.....	.....	.....
1981	2.36	1.33	.....	.....	.....
1982	2.83	1.30	.....	.....	.....
1983	1.77	1.18	.....	.....	.....
1984	1.29	.99	.....	.....	.....

[1] There has been no U.S. production of casein since the late 1960's Although there is U.S. production of mixtures of casein (e.g. caseinates), all is from imported casein.

[2] Estimated by the staff of the U.S. International Trade Commission.

[3] Not available.

[4] Does not include any estimate of inventory change.

Source: Compiled from official statistics of the U.S. Department of Commerce.

STATEMENT ON BEHALF OF NEW ZEALAND MILK PRODUCTS, INC., EDWARD J. FARRELL, OF COUNSEL, BRONZ & FARRELL

SUMMARY

1. The opposition of the New Zealand Dairy Industry, and indeed New Zealand itself, to H.R. 431, is based on the New Zealand Dairy Board's role as the world's largest nonsubsidized commercial dairy product exporter.

2. To impose quotas on casein and other milk proteins would fly in the face of the findings of every objective U.S. agency that these imports do not harm the U.S. industry.

Casein production ceased in the U.S. with the introduction of the price support program.

Casein and other imported milk proteins are used for their functional qualities in applications for which domestic dairy products, like nonfat dry milk, are not suitable. Unlike a commodity like NFDM, these products are sophisticated technical products individually tailored for specific uses.

Milk proteins allow for the production of products which offer the consumer a valuable nutritional choice—indeed in some cases a life saving one.

3. H.R. 431, if passed, would violate the U.S.'s obligation under the GATT as it would be specifically contrary to the U.S.'s undertaking in obtaining the GATT waiver for Section 22.

STATEMENT

This statement is submitted on behalf of New Zealand Milk Products, Inc., Petaluma, California in response to your invitation for comments on various trade and tariff bills. Specially we write in opposition to H.R. 431 which would impose quotas on casein and other milk proteins. New Zealand Milk Products is a U.S. corporation, wholly owned by the New Zealand Dairy Board, which was founded some fifteen years ago to market in the U.S. the whole range of dairy products manufactured in New Zealand, which are allowed access to this market. The New Zealand Dairy Board is a producer's cooperative organization representing the dairy farmers of New Zealand. While the Board has responsibilities in the administration of the dairy manufacturing industry, its principal function is the export of dairy products to world markets.

As the Committee is probably aware, dairy farming is one of the basic sectors of the New Zealand economy—an economy which depends heavily on the export of livestock products. The manufacture of dairy products in New Zealand absorbs around 90% of the total milk production, and about 80% of the manufactured output is exported each season. The New Zealand Dairy Board is the world's major commercial exporter of dairy products and New Zealand is dependant on dairy exports to a greater degree that any other country. As the central marketing organization, the New Zealand Dairy Board last year exported more than a billion dollars worth of manufactured dairy products to world markets.

Because of these considerations the Board, and indeed all of New Zealand, are greatly impacted by the agricultural protectionism of the countries to which she exports. It is this concern that leads to this submission for your review in your consideration of H.R. 431.

With respect to casein, imports have been the subject of three major (and numerous lesser) studies in the last six years—all of which have found that their impact is negligible. Most recently, in June of 1982, the ITC found under Section 22 of the Agricultural Adjustment Act that casein was not being imported: "under such conditions or in such quantities as render or tend to render ineffective, or materially interfere with, the price support program for milk . . . "*Casein* . . . (Investigation No. 22-44) USITC Publ. 1217, ? 82, P. 1.

Having thus failed to demonstrate to any objective agency of the United States government any need for such a quota, the domestic industry continues to seek legislated quotas.

The domestic industry's request is, to say the least, unusual. They are seeking a quota on a product they don't even make, so naturally they have to weave a fabric of theories of indirect impact, but it simply does not hold water, 1979 the International Trade Commission conducted a study of casein and its impact on the domestic dairy industry. Their conclusions there, which were reaffirmed in their 1981 Section 22 investigation and which continue to be true today, could not be more clearly stated nor more supportive of the contentions that we advance here and have advanced during the numerous public hearings that have been held on this issue in the past. In brief, the ITC found that:

"The data collected during the course of the Commission's investigation indicate virtually no relationship between imports of casein and mixtures of casein and purchases of nonfat dry milk under the price-support program in recent years. Likewise, no clear relationship is apparent between imports and domestic production or consumption of nonfat dry milk. Additionally no clear relationship is apparent between imports of casein and mixtures of casein and other forms of domestic dairy production." USITC Pub. 1025, p. 4, December 1979.

As the ITC points out, New Zealand is by far the largest supplier of casein to the U.S. market. Casein is produced on a regular and continuing year-round basis in New Zealand in plants dedicated to its production and representing substantial capital investment. It is not produced as a surplus product, but is part of the normal mix of dairy products produced in New Zealand to assure the maximum return possible to the New Zealand dairy farmer. It is priced accordingly. That is, the price of casein is established at a level that will assure that the net back return to New Zealand will equal that for nonfat dry milk or any other skim milk product. As it is economically impossible for any country to subsidize a major branch of its economy, so it is impossible for New Zealand to subsidize its dairy industry, and it does not—New Zealand's ability to compete worldwide is founded in the lower cost basis provided by her favorable climate and efficiency.

The volume of New Zealand's casein output is also relatively stable, first because total milk production is established by the ability to market the products produced from the fat portion of the milk, and second, because the dairy industry must spread the risk inherent in international dairy trade in order to achieve the highest practicable prices for its producers whose livelihood directly depends upon export realizations. New Zealand is committed not to volume growth so much as to careful and sustained technological advance in casein production for export. This has required a continuing heavy investment, both in manufacturing plants and in the development of technological know-how—imported casein is now available from New Zealand in over 40 major specifications many of which are divided into subgroups to meet particular customer requirements. This technically advanced and highly diversified group of products is the result of years of research into the application of casein.

Any notion that casein is simply a substitute for nonfat dry milk in its food and feed applications has been completely dispelled by the ITC in their reports. They describe both the functional and nutritional characteristics of casein which are not shared by nonfat dry milk and uses for which nonfat dry milk could not be a substitute. In brief, these functional characteristics include the ability of casein to aid in gel formation, stabilize a foam or whip, increase viscosity, or hold fat in a stable emulsion without phase separation. According to the ITC, these properties allow for the use of casein in such food products as coffee whiteners frozen desserts and whipped toppings. Nutritionally, the ITC reports that it is virtually uncontested that milk products, including nonfat dry milk, could not replace casein in a number of nutritional formulas, particularly those for persons intolerant to lactose or intact proteins.

The ITC also recognized the substantial factor of consumer preferences in the choice of many casein containing products, disabusing any notion that price is the only criteria in the use of casein in manufactured food products. Casein is a product which allows the consumer this freedom of choice, it is a product which contributes to the economic well being of the processed food industry, but it is not a product which displaces nonfat dry milk.

Likewise, other milk protein product imports, such as whey protein concentrates and lactalbumins, are designed as functional food proteins. Whey protein concentrates are used in special dietary preparations and nutritional supplements. They are ideal proteins for the preparation of infant formulae which simulate the specific characteristics of mother's milk. Lactalbumins are used for fortification of a wife variety of cereal goods which generally contain lower quality proteins, such as breakfast cereals, pasta, cookies and pizza crust.

U.S. produced whey protein concentrates normally have a protein concentration of 34-45% and are used primarily as milk replacers and fillers. These lower protein products are not incorporated in foods to utilize the functional characteristics of the protein that they contain, whereas the New Zealand produced 55% or higher protein products have a much wider and nutritionally more flexible utilization.

Finally, the United States' international obligations under the GATT prohibit the restriction of trade in products unless certain agreed upon conditions are met. In the case of dairy products the U.S. was granted a waiver by the GATT for Section 22 of the Agricultural Adjustment Act of 1933. In seeking that waiver the U.S. made a statement which set forth the conditions under which restrictions could be im-

posed. In particular, paragraph (c) of that statement reads as follows: "that import restrictions can be imposed under Section 22 only when the President finds that imports are having or are practically certain to have the effects for which Section 22 action is required, and then, except as provided by law in emergency situations, only after investigation by the U.S. Tariff Commission (now the U.S. International Trade Commission), after due notice and opportunity have been given to interested parties;" GATT, 3rd Supp. BISD 32 (1955).

Thus, for restrictions to be imposed, either directly or indirectly, a Presidential determination must be made, a condition clearly not met by H.R. 431. To couch such legislation in Section 22 language does nothing to meet the U.S.'s obligation under the waiver.

The New Zealand dairy industry has committed, over many years, a considerable technical and commercial investment in the development of a major part of the United States market for casein and other milk protein products, and would be seriously damaged if there were any restrictions imposed on this trade. It is becoming increasingly obvious that any country's health is determined to a great extent by the health of its trading partners. The casein/milk protein trade is a perfect example. These products are the only New Zealand dairy exports to the United States not currently subject to protectionist quotas. Restriction of this legitimate business would reflect adversely on the United States' international trade posture, especially as no other industrialized country has seen the need to impose quantitative import restrictions on these products. It would also deprive United States end users and consumers of valuable products which serve them well economically and nutritionally—and so deprive them without any benefit accruing to a domestic industry.

Respectfully submitted.

H.R. 705

To increase for a 3-year period the duty on imported sheet vinyl flooring

U.S. International Trade Commission

Section-by-section analysis

H.R. 705, if enacted, would increase for a 3-year period the column 1 rate of duty [1] on imported sheet vinyl flooring. The least developed developing countries (LDDC) and column 2 rates of duty [2] would remain unchanged. Section 2 makes the legislation effective 15 days after the date of enactment.

Background and sponsor's justification

Description and uses.—Sheet vinyl floor coverings are floor coverings sold in sheet form of varying widths and lengths made either wholly of in chief value of vinyl plastics. There are two basic types of sheet vinyl flooring—those made wholly of vinyl and those composed in chief value of vinyl. Flooring made wholly of vinyl is composed of a solid polyvinyl chloride (PVC) sheet which may contain a protective vinyl surface known as a wear layer. Such flooring is unbacked, and any pattern extends all the way through the thickness of the sheet. Sheets made in part of vinyl are produced by fusing the vinyl layer to a variety of backings such as mineral felt, glass mesh and polyvinyl chloride, fibrous polyester glass and clay, or eurothene foam. Mineral felt is the most commonly used backing in the United States. The backing, the vinyl material, and the wear layer (generally of vinyl composition) are fused together by a process called calendaring, wherein two or more cylinders revolve in close proximity to one another in such a way that materials passing between the cylinders are glazed together. Calendaring can be accomplished with a combination of heat, pressure, and, sometimes, chemical agents.

Design patterns for sheet vinyl floor coverings other than pure PVC sheet are produced through two techniques—rotogravure and inlay. Rotogravure, the principal method of producing patterns, is a printing process in which the image is etched onto the surface of a cylinder, creating minute cells of varying depth from which the ink is transferred to the print surface, either directly or by way of pressure from an impression roll and capsulating action. Inlaid flooring is made by a process in which a vinyl material is pulverized into a color powder or pieces, sifted through a metal stencil onto a treated backing, and then fused to the backing. The backing in this case may be temporary—used in the production process and then removed—or it may be permanent. As is the case for pure PVC sheet flooring, the design of inlaid flooring extends through the thickness of the sheet (except for any backing), whereas the design of the rotogravure flooring is on the surface only. This lends particular importance to the wear layer on the rotogravure flooring. Wear layers are of varying composition (usually vinyl plastics) and are produced by various methods. Both the formulas and methods of production are generally trade secrets.

The texture design of the surface is accomplished through embossing, either mechanically or chemically. Mechanical embossing can be used with any type of sheet vinyl flooring and consists of the creation of the texture through impression. Chemi-

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed countries (LDDC) rate of duty column.

[2] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

cal embossing may be used only on rotogravure products. After printing, the vinyl layer is expanded, usually during calendaring or application of the wear layer. In chemical embossing, retardant chemicals are mixed in with certain of the inks used in the rotogravure, and the vinyl does not expand as much where these inks are printed, creating the textured surface. Chemical embossing allows for texturing that matches a more detailed pattern than is possible with mechanical embossing. Furthermore, by varying the amount of retardant in different inks, chemical embossing can be used to create a number of different surface pattern depths on one sheet in a single operation. It should be noted that most chemical embossing done in the world today stems from the process developed, patented and licensed by one U.S. flooring manufacturer.

The market for sheet vinyl flooring may be divided into two major segments, residential and commercial. Residential use is confined to homes, usually in kitchens, bathrooms, foyers or entranceways, and family or recreation rooms. A special submarket of the residential market is that for manufactured homes, which includes prefab or modular houses, mobile homes, and recreational vehicles. The commercial market may be divided further into light commercial and heavy commercial. An example of light commercial use is an office where traffic and wear is not a major problem. Light commercial use is similar to residential use in wear requirements. Heavy commercial use includes hospitals, airports, train and bus stations, schools, malls, and public areas of commercial buildings, such as lobbies and hallways, where traffic is heavy. Certain specialty markets, such as hospital operating rooms and clean rooms, are also included in the heavy commercial category. Nearly all these markets can be further classified as either new construction or remodel/replacement.

Sponsor's justification.—The sponsor notes that one U.S. producer had patents on the key technology which have expired over the last four years.[3] The sponsor is concerned that the domestic market has been opened to imported products that had heretofore been excluded from the market due to this patent protection. The sponsor advocates this tariff increase as a method of achieving trade reciprocity on a "product" basis; i.e., as a lever to encourage our major trading partners to lower their import tariffs on this product to the U.S. level in order to stimulate U.S. exports.

Prior investigations

In August 1984 the U.S. International Trade Commission released a report, publication 1562, to the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives entitled *The Impact of Tariff and Nontariff Barriers on the U.S. Sheet Vinyl Flooring Industry (No. 332-179).* This report notes the differentials which exist between U.S. tariff rates and those of its major trading partners.[4] However the report also notes numerous nontariff barriers to U.S. exports. For example, the U.S. generally bases its determination of customs value on the f.o.b. price at the port of exportation. Thus, U.S. customs value does not include the cost of ocean shipping or insurance, a major cost factor for sheet vinyl flooring.[5] By contrast, E.C. customs value is based on the c.i.f. method of appraisement; [6] i.e., the cost of international freight and insurance is included in the value of U.S. products entering the E.C. Accordingly, the same *rates* of duty will produce different amounts owed to the customs authorities for identical shipments sent from the U.S. to the E.C. and from E.C. to the U.S.

Comparison with present law

Tariff treatment under the TSUS.—Sheet vinyl flooring products imported into the United States enter under item 728.24 of the Tariff Schedules of the United States (TSUS). This provision covers all floor coverings of vinyl, other than vinyl tile. Sheet vinyl flooring is the principal article imported under this provision (probably the only product correctly classified under TSUS item 728.24 at present) although products have been reported as classified under this provision. The column 1 rate of duty presently applicable to item 728.24 is 6.1 percent. The following tabulation shows the pre-NTN rate, the staged rate reductions, and the column 2 rate.

---

[3] *Congressional Record* (March 26, 1985) pg. S-3442.

[4] The report concludes that "[d]uty is generally not a significant factor in determining trade in sheet vinyl flooring." Publication No. 1562 at pg. vii.

[5] "Transportation costs are the primary nonproduction cost factor affecting international trade in sheet vinyl flooring." *Id.* at pg. viii.

[6] Japan also bases customs value on the c.i.f. method.

TSUS item No.	Description	Pre-MTN col 1. rate of duty 1/	Staged col. 1 rates of duty 2/ effective with respect to articles entered on or after Jan. 1--			
			1980	1981	1982	1983
728.24	Sheet vinyl flooring	8.5%	8.1%	7.7%	7.3%	6.9%

TSUS item No.	Description	Staged col. 1 rates of duty 2/ effective with respect to articles entered on or after Jan. 1--Continued				Col. 2 rate of duty
		1984	1985	1986	1987	
728.24	Sheet vinyl flooring	6.5%	6.1%	5.7%	5.3%	40.0%

1/ Rate effective prior to Jan. 1, 1980.
2/ The symbol "%" indicates "percent ad valorem."

In addition, this item is elegible for duty-free entry under the Generalized System of Preference (GSP)[7] and the Caribbean Basin Economic Recovery Act (CBERA).[8]

Tariff treatment under the proposed Harmonized System (HS)[9]—Sheet vinyl flooring would enter under HS item 3918.10.2020, sheet vinyl flooring, at 5.3 percent ad valorem.[10]

Comparison of U.S. and foreign tariff treatments

The highest major trading partner rate of duty is 14.0 percent and is applied to imports classified under Canadian tariff item number 93.902-75 and EC tariff item number 39.02C7b. The following tabulation shows the current and scheduled rate reductions for the U.S., Canadian, and EC tariff items.

Country	Item No.	Rate (in percent)		
		1985	1986	1987
United States	728.24	6.1	5.7	5.3
Canada	93.902-75	13.9	13.7	13.5
EC	39.02C7b	14.0	13.3	12.5

[7] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Traffic Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[8] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to elegible articles imported directly from designated Basin countries.

[9] The Harmonized System is intended to serve as a single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. These provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters, and sections, form the legal text of the system. This section describes the nomenclature structure, and the rate of duty scheduled to be in effect on January 1, 1987, if the United States adopts the proposed HS as the basis for the U.S. tariff schedules.

[10] USTR, Trade Policy Staff Committee, *Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System, Revised, Showing Administrative Changes Approved by the Trade Policy Staff Committee.* (September 1984) pg. 39-8.

Structure of the domestic industry

There are currently four U.S. manufacturers of sheet vinyl flooring; these firms are located in Pennsylvania and New Jersey. Of the four producers, two also import some sheet vinyl flooring, one has foreign subsidiaries manufacturing sheet vinyl flooring, and another is a subsidiary of a Swedish manufacturer. Two of the four manufacture other textile and nontextile floorings in the United States, and all four export sheet vinyl floorings to some extent. Market share information is unavailable.

Each producer maintains one facility in the United States for manufacturing sheet vinyl flooring; the following is a list of the plant locations:

Armstrong plant—Lancaster, Pennsylvania.
Congoleum plant—Kearny, New Jersey.
Mannington Mills plant—Salem, New Jersey.
Tarkett plant—Whitehall, Pennsylvania.

Estimated employment of production and related workers was less than 4,000 in each year during 1981–84. Industry sources estimate that the industry is currently operating at approximately 80 percent of capacity.

Domestic production

Production data are not available; however, the staff estimates that producers' shipments for 1981–84 were as follows (based on U.S. industry estimates):

[Quantity in millions of square yards]

Year:	
1981	140
1982	130
1983	150
1984	172

[Value in millions of dollars]

1981	500
1982	480
1983	565
1984	659

There is no U.S. production of solid PVC sheet flooring. Rotogravure products were produced by all the U.S. manufacturers during 1981–84, and all used some form of chemical embossing. One manufacturer also uses mechanical embossing. There is one U.S. producer of inlaid flooring; this firm is the largest manufacturer of such flooring in the world.

U.S. imports

The quantity and value of imports of sheet vinyl flooring under TSUSA item 728.2440 are estimated [11] as follows (based on official statistics of the U.S. Department of Commerce):

[Quantity in millions of square yards]

Year:	
1981	8
1982	8
1983	14
1984	15

[Value in millions of dollars]

1981	13
1982	12
1983	21
1984	24

[11] It was necessary to estimate imports for item 728.2440 since entries as reported are overstated to the extent that they include significant quantities of sheet rubber flooring.

Imports rose from 8 million square yards, valued at $13 million, in 1981 to 15 million square yards, valued at $24 million, in 1984. Canada was the single largest source of imports; West Germany, Sweden, Japan, and the United Kingdom were also major suppliers.

U.S. exports

The quantity and value of exports of sheet vinyl flooring are as follows (based on U.S. industry estimates):

[Quantity in millions of square yards]

Year:	
1981	11
1982	10
1983	9
1984	8

[Value in millions of dollars]

1981	40
1982	34
1983	34
1984	30

All four domestic manufacturers export sheet vinyl flooring to some extent. Exports declined from an estimated 11 million square yards, valued at $40 million, in 1981 to 8 million square yards, valued at $30 million, in 1984. Canada was the largest export market.

Apparent U.S. consumption

The estimated quantity and value of apparent U.S. consumption of sheet vinyl flooring are as follows:

[Quantity in millions of square yards]

Year:	
1981	137
1982	128
1983	155
1984	179

[Value in millions of dollars]

1981	473
1982	458
1983	552
1984	653

Based on quantity, the ratio of imports to consumption is estimated to have ranged between 6 and 9 percent during 1981–84; based on value, the ratio ranged between 3 and 4 percent.

Effect on revenue

Based on percentage changes in the value of these imports over the past four years, it is estimated that an additional $9.9 million in revenue would be collected over the period 1985–87, if the legislation is enacted.

General and technical comments

The intent of the legislation is to equalize tariff rates between the United States and our major trading partners (Canada and the European Community). An additional 8.2 percent rate of duty would more than equalize the current rate and would result in a rate that is higher than any other major trading partner throughout the proposed three-year period. The current U.S. rate is 6.1 percent; an additional 8.2 percent would produce a rate of 14.3 percent, while the current highest rate assessed by our major trading partners is 14.0 percent (the E.C.). To avoid overcompensating, it is suggested that the difference between the highest major trading partner rate and the U.S. scheduled rate for each of the next three years be applied as the additional rate in subpart A of the Appendix to the TSUS, as follows:

Item	Articles	Rates of Duty					Effective Period
		1			LDDC	2	
		Effective on or before January 1,					
		1985	1986	1987			
902.00	Sheet vinyl flooring (provided for in item 728.24, part 4B, schedule 7).	7.9% ad valorem.	8.0% ad valorem.	8.2% ad valorem.	No change.....	No change.....	On or before 12/31/87.

GATT comments

Sheet vinyl flooring was provided for under item 728.25 when this item was bound at Geneva in the 1979 Tokyo round of multilateral tariff negotiations. The rate was bound against increase at 5.3 percent ad valorem pursuant to Article II of the GATT. This product was first incorporated in a GATT schedule in the 1947 multilateral tariff negotiations at Geneva. Subsequently, the United States bound floor coverings, not specially provided for, against increase at 20 percent ad valorem to the six original EC members, and at 17 percent ad valorem to the UK, Japan, and Canada. If the U.S. rate of duty is increased above the bound levels, the United States could be subject to claims by materially affected contracting parties (i.e., "principal suppliers" [12] or "leading suppliers" [13] under Article XXVIII.1, or countries with which the United States has exchanged Initial Negotiating Rights (INR's) [14] for compensatory concessions. In addition, the United States could be subject, under the GATT, to the retaliatory withdrawal of benefits previously granted to the United States by these countries.

U.S. DEPARTMENT OF COMMERCE,
Washington, DC, June 25, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in response to your request for the views of this Department on H.R. 705, a bill "To increase for a 3-year period the duty on imported sheet vinyl flooring."

The Department of Commerce opposes enactment of H.R. 705.

H.R. 705 would increase the duty for sheet vinyl flooring to 8.2 percent *ad valorem* for a 3-year period. This product currently is imported under Tariff Schedules of the United States (TSUS) item 728.24 at a column 1 (MFN) rate of duty of 6.1 percent *ad valorem*. The column 2 (statutory) rate of 40 percent is not affected by this legislation. As a result of concessions made in the Tokyo Round of trade negotiations, the MFN duty on this product will be reduced in stages to 5.3 percent *ad valorem* by January 1, 1987. This item is eligible for duty-free treatment under the U.S. Generalized System of Preferences (GSP).

Congress has provided, in section 201 of the Trade Act of 1974, for procedures under which domestic industries that believe they have been injured or threatened with injury by rising imports may petition the United States International Trade Commission (USITC) for relief. Where unfair foreign trade practices are involved, we believe that the antidumping and countervailing duty laws administered by this Department and the USITC provide adequate procedures for relief. Under these laws, additional duties may be imposed on imported products if they are being unfairly subsidized or offered for sale in the United States at less than fair value.

---

[12] Based on the most recent trade data, Canada with a 55 percent share of U.S. imports would be considered the "principal supplier".

[13] Based on the most recent trade data, the EC with a 23 percent share of U.S. imports would be considered a "leading supplier". Sweden's 8 percent share of U.S. imports falls below the 10 percent threshold usually required for consideration as a "leading supplier", but they would probably have a good claim for compensation.

[14] Although not a "principal" or "leading" supplier, Japan has an INR at 17 percent ad valorem with respect to this product. The United States could reasonably expect Japan to submit a claim for compensation if the rate is increased above that level.

A recommendation by the USITC that relief be granted under section 201, and the imposition of additional duties under the antidumping and countervailing duty laws, must be based upon a finding of serious injury or threat thereof to the affected industry, and are thus consistent with United States international obligations under the General Agreement on Tariffs and Trade (GATT). Because H.R. 705 contains no such requirement, its enactment would violate these obligations.

In addition, the duty on sheet vinyl flooring was subject to concessions made by the United States under the General Agreement on Tariffs and Trade (GATT) and is bound against increase. Under the terms of the GATT, if the United States takes an action which results in an increase in tariffs on a bound item, countries with substantial trade interests in the item may claim offsetting compensation from the United States for the trade effects of the action or subject the United States to retaliatory trade restrictions. We believe it is inappropriate to jeopardize our trading interests in this manner.

There would be no revenue loss from enactment of H.R. 705. Enactment of H.R. 705 would have no impact on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS,
General Counsel.

STATEMENT OF HARRY F. PEARSON, PRESIDENT, RESILIENT FLOORING DIVISION, CONGOLEUM CORP.

The Congoleum Corporation and its subsidiary, the Resilient Flooring Division, which manufactures and markets a broad line of resilient sheet vinyl floor coverings, submit this statement in support of H.R. 705. This bill proposes to increase for a 3-year period the duty in imported sheet vinyl flooring.

Congoleum seeks an equal opportunity to export its products to other markets, not to close off the US market. In fact, Congoleum favors free, fair and unrestricted trade. But it is implicit in such a policy that reciprocity on the part of America's trading partners is essential. Reciprocity was a premise of the Multilateral Trade Negotiations and, as such, must continue to be integral to implementation of the decisions reached in these negotiations.

There is, however, a wide disparity in tariffs for resilient floor coverings between the United States and other countries and we need to restore some tariff equity to a small but still healthy American industry which would like the opportunity to export products. The bill would temporarily raise the duty on sheet vinyl floorinig to a level equal to the negotiated tariff rate of foreign producers. The purpose of this temporary increase is to encourage Europe and Canada to reduce their duties on this product so that our companies can sell there as freely as they can sell here. Currently, they enjoy an unfair trade advantage caused in good part by an unequal tariff that favors foreign products. The International Trade Commission was tasked by the Trade Subcommittee to analyze this issue. They have recently completed a 332 Investigation of "The Impact of Tariff and Non-tariff Barriers on the US Sheet Vinyl Flooring Industry." The Commission's findings confirm a significant tariff inequity exists on vinyl floor coverings which favors our foreign competitors.

The inequity is substantial. First, the duty rates are higher in the European Economic Community (ECC) which imposes a 14% duty compared to the US duty of 6.1% on imported cushioned vinyl flooring. Second, the tariff basis differs. Even though the transportation costs are the same both ways across the ocean, the EEC computes its duty on the C.I.F. (cost, insurance, freight) value, whereas the United States computes duty to be paid on the F.O.B. value (price at the producing factory). By requiring duty to be paid on the freight as well as the product itself, a large bulky item like floorcovering can incur a significant penalty from the calculation basis alone. Third, countries in the EEC levy a value added tax (VAT) on all goods sold, ranging from 10% to 30%, which compounds the tariff differential. European manufacturers pay VAT only on their sales price, while Congoleum pays the VAT also on the tariff—a tax on a tax. When all obstacles to foreign sales are combined, US manufacturers can be at a 25% price disdvantage for otherwise comparable goods. It is not surprising that imports from the United States account for very little of the European market.

Competition in Europe is keen. The ITC investigation points out that there are twelve major European manufacturers of sheet vinyl flooring vying for a market that is smaller than the United States and they are currently operating at only 50 percent of capacity. The combination of unused capacity, tough competition in their own European market and favorable tariff structure makes exporting to the US most attractive.

Congoleum is concerned with Canada, as well as EEC, and would like to see Canadian tariff barriers reduced. Congoleum has requested that sheet vinyl flooring, TSUSA item number 728.24, be included in the sectors under consideration by the US Trade Representative in the establishment of sectoral free trade area arrangements with Canada. While the calculation in both the US and Canada is based on the F.O.B. value, the duty rates differ significantly. Canadian purchasers of US flooring pay 13.9% duty, where U.S. purchasers of Canadian flooring pay only 6.1%. Congoleum estimates it will lose $2.5 million in domestic sales to Canadian competitors this year due to this tariff differential. In addition, our sales in Canada would be $5 to $7 million higher if the Canadian tariff did not make them non-competitive.

If the tariff inequity is allowed to continue, our position as an American producer, even in our home markets, will be threatened by increasing imports, particularly from Canada, the United Kingdom, West Germany, France, Switzerland, Sweden, the Netherlands, and Spain. At almost any time in the near future, this could amount conservatively to several million dollars of sales revenues lost to foreign competition due largely to the unfair tariff advantages. Imports in the first half of 1984 were up 42% over the comparable period of 1983.

The US tariff on sheet vinyl flooring was bargained away during a period when the tariff rate was not terribly important, because the US industry enjoyed patent protection on the key technology. As those patents have expired over the last 4 years, the disparity of tariff rates began to show up in increased imports from Europe and Canada. The purpose of this bill is not to stop those imports, but to remove the barriers to our producers exporting to their markets.

The current duty rate differentials create definite incentives for US firms to jump over the tariff and locate plants in Europe and Canada at a cost of US jobs. This legislation is designed to remedy that situation.

Preferably, this bill would not be necessary, and our European and Canadian trading partners would agree to reduce their tariffs to the same levels as ours. Indeed, it would be best if the duty rates on these products were reduced to zero in all countries. Until that occurs, however, we believe this bill should be enacted into law to encourage the European Community and Canada to reduce their duties to the US tariff rate.

H.R. 725

To prohibit the importation into the United States of goods that are the products of countries that aid or abet acts of international terrorism against the person or property of United States citizens

U.S. International Trade Commission

Section-by-section analysis

This bill authorizes the President to prohibit importation of products of any foreign country that aids or abets an act of international terrorism against a U.S. citizen or the property of a U.S. citizen. The term "international terrorism" is not defined in the bill. A country is treated as aiding or abetting such an act if it provides support for commission of the act, recruits or trains those who commit the act, or refuses to prosecute or grants sanctuary from prosecution.

Background and purpose

Background.—There has been a general increase in terrorist acts worldwide in recent years. According to the U.S. Department of State, there were more than 500 terrorist attacks in 1983 and more than 200 of them were against U.S. citizens or U.S. property. Among the worst of the recent attacks were the attacks in Beirut in late 1983 and early 1984 against the U.S. Marine barracks and U.S. embassy, respectively. There were an estimated 70 or more such attacks in 1983 allegedly involving significant state support or participation. Several of these attacks were against U.S. citizens or U.S. property. Countries which have been implicated in terrorist acts against the United States in recent years include the Soviet Union, Iran Libya, North Korea, and Cuba.[1]

Purpose.—In introducing the bill, Mr. Stark (D–Calif.) stated that the bill was designed to correct a "grave deficiency" in present U.S. law by providing the President with authority to act against countries which aid and abet acts of terrorism—"state-supported terrorism". As an example of such terroism, Mr. Stark cited the murder of two American officials aboard a hijacked Kuwaiti airliner in Teheran in December 1984 and stated that there was substantial evidence that Iran acted in collusion with the hijackers in that incident. He also stated that the Beirut truck bombings could not have occurred without Iranian assistance.

Mr. Stark stated that present U.S. law makes it easier for the President to prohibit or limit U.S. exports to a country, to the detriment of U.S. industries, than for the President to control the level of imports from a foreign country. The net effect of actions involving U.S. exports, he said, was to adversely affect the U.S. trade position without seriously affecting the economy of the targeted nation. Mr. Stark believes that the bill, if passed, would make the threat of U.S. economic sanctions far more serious and provide U.S. policy makers with more options.[2]

Trade implications

The bill would apply to imports of any country which aids or abets international terrorism, fails to prosecute individuals commiting such acts, or provides sanctuary from prosecution to such individuals. The United States imports a significant quantity of goods from only two of the five countries named above as allegedly supporting terrorist actions against the United States, the Soviet Union and Iran. There are no imports from two of the five countries, Cuba and North Korea. Imports from Cuba are generally prohibited and imports from N. Korea are also prohibited subject only to limited exceptions.[3] Only very small amounts enter from Libya, mostly U.S. goods returned under the provisions of Schedule 8 of the TSUS. The bulk of Iranian imports enter under Schedule 4 and consist of petroleum products. Imports from Iran totaled about $1 billion in 1983. Imports from the Soviet Union are also

---

[1] "Terrorism: The Problem and the Challenge," *Department of State Bulletin*, August 1984.
[2] Congressional Record of Jan. 25, 1985 (131 Cong. Rec. E210).
[3] Foreign Assets Control Regulations, 31 CFR 500.204(a).

concentrated in Schedule 4 (mainly chemicals and fuel oil), but also include significant amounts entered under Schedule 1 (agriculture, fisheries, etc.) and Schedule 6 (especially ores and metal products). Imports from the Soviet Union exceeded $400 million in 1984.

Revenue effect

It is not possible to estimate the potential revenue effect of this legislation. The revenue lost from any limitations or embargoes imposed under this authority would depend on the nature of the President's action, the level of imports from the country against which the action was taken, the availability of similarly priced substitute imports from other countries, and the dutiable status of such substitute imports.

GATT considerations

Limitations or prohibitions imposed by one GATT contracting party on the importation of goods from another GATT contracting party are prohibited except under certain circumstances. Article XXI provides that nothing in the agreement (GATT) is to be construed as preventing a contracting party "from taking any action which it considers necessary for the protection of its essential security interests . . . taken in time of war or other emergency in international relations. . . ." Of the five countries listed above as allegedly supporting terrorist activities, only one, Cuba, is a contracting party to the GATT.

H.R. 821

To prohibit the importation of South African krugerrands or other gold coins minted in South Africa or offered for sale by the Government of South Africa

Statement of the American Federation of Labor and Congress of Industrial Organizations

The AFL-CIO believes that both the current state of the economy and the negotiating position of the United States call for extreme caution in unilaterally reducing tariffs. Further at a time when Congress is looking for every dollar of possible revenue, it is a move in the wrong direction to cut revenue derived from tariffs.

With close to 8½ million Americans out of work and imports flooding into the American market displacing domestic production and jobs, tariff reduction simply do not make sense. The U.S. experienced a merchandise trade deficit of almost $123 billion in 1984, and the deficit continues to grow in 1985. As this crisis in trade intensifies, tariff cutting adds fuel to the fire, costing jobs and production by encouraging imports. In addition, industry is led to believe that movement of factories to other countries and/or expansion abroad or importing will be cheaper than producing in the United States. The result is a double incentive to erode the U.S. industrial base even further and to cut the jobs and production opportunities that can develop here.

These general views do not mean that every single proposal for tariff cutting falls into this category. Each bill should be examined carefully to determine its impact on both the industry in question and the overall economy. The following comments on specific bills represent the views of the AFL-CIO at this time.

The AFL-CIO supports H.R. 2350, a bill to extend the present treatment of bicycle component parts within foreign trade zones, thereby encouraging domestic bicycle production as opposed to simple assembly.

The AFL-CIO support H.R. 1262, a bill to equalize duties on imported tuna to eliminate the advantage enjoyed by certain types of imported tuna entering the U.S. market.

The AFL-CIO supports H.R. 1905, a bill concering imported coal. Competative advantage should not be achieved through unsafe and unhealthy working conditions or environmental pollution.

The AFL-CIO supports H.R. 2349. This bill would encourage domestic television producton.

The AFL-CIO supports H.R. 821 as one means of pressing the Government of South Africa to dismantle its system of aparthied.

The AFL-CIO supports H.R. 1256, a bill to prohibit the importation of benzidine and its derivatives into the United States. Benzidine has been known to be a carcinogen for more than 50 years, and through stringent regulation, its manufacture in the U.S. is effectively banned. Imports, however, of this product have been streadly increasing. Since substitute chemicals and dyes exist, this bill would encourage the world community to end all worker exposure to the deadly chemical.

The AFL-CIO opposes H.R. 2028 and H.R. 2029, two bills dealing with imported watches, clocks, and parts. Watches continue to be extremely trade sensitive with imports increasing some 50 percent from 1982 to 1984 and exports declining by 100 percent in that same time period. In Title V of the recently enacted Trade and Tariff Act of 1984 Congress recognized the import sensitive nature of these products and voted to maintain watches on the list of GSP ineligible articles. Nothing has occured to justify a reversal of that judgement.

The Comments contained in this testimony should not be considered to be the AFL-CIO's final views on the numerous bills contained in the Subcommittee's request for statements. We believe that the Subcommittee should consider each bill seperately in order for there to be a complete exchange of views on the relative merits of the various proposals. If and when action is begun on a particular proposal the AFL-CIO will, in appropriate cases, inform the Members of our position.

The issues of duty and tariff modifications are complex, we thank the Subcommittee for considering our views and pledge to work with you in the future to help ensure that the trade policy of the United States is one which meets the needs of all of its citizens.

H.R. 838

To amend the Tariff Schedules of the United States in order to establish equitable duty rates for waterbed mattresses, liners, and parts thereof

U.S. INTERNATIONAL TRADE COMMISSION

Section-by-Section Analysis

Section 1 of this legislation would raise the column one rate of duty [1] on waterbed mattresses and liners, provided for in item 727.53 of the Tariff Schedules of the United States (TSUS), from 2.4 percent ad valorem to 40 percent ad valorem. It would also increase the column two rate of duty [2] from 25 percent to 40 percent ad valorem. Section 2 would make these changes effective as of the fifteenth day after the date of their enactment.

Background and Justification

Description and uses.—Waterbed mattresses, liners, and their parts are made primarily of vinyl material. Mattresses and liners are two of the three principal parts of waterbeds; all waterbeds require mattresses which can be filled with water or some liquid substance (generally about 200 gallons), as well as plastic liners which serve as a protective layer between the waterbed frame (the third essential part) and waterbed mattress.

The manufacture of waterbed mattresses is quite labor intensive, as the mattresses are fashioned from large strips of polyvinyl chloride (PVC); waterbed liners are basically specially cut sheets of the same plastics material. Because there are not distinctive manufacturing processes, the quality of U.S.-produced and imported mattresses is essentially equal.

Justification.—The waterbed mattress and liner industry is concerned about the impact of imports on their industry. To offset allegedly lower-priced imports, many U.S. producers have moved some or part of their operations offshore or are importing directly. Several domestic manufacturers have formed a coalition to promote legislation to increase tariffs on these articles.

Prior Investigation

The only investigation concerning the subject articles has involved the probable economic effect of continuing preferential treatment under the Generalized System of Preferences (GSP) [3] and was conducted by the Commission staff in 1983. As a result of Executive Order 12471 of April 3, 1984, waterbed mattresses and liners were provided for in TSUS item 727.53 and were made ineligible for GSP treatment (See 49 FR 13101 *et seq.*).

Comparison with Present Law

Tariff treatment under the TSUS.—Waterbed mattresses and liners are classified under the provisions of TSUS item 727.53. Prior to March 30, 1984, when this sepa-

---

[1] The rates of duty in rate of duty column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Initiative (CBI), or under the Least Developed Developing Countries (LDDC) rate of duty column.

[2] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[3] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

rate TSUS item was created for purposes of the GSP, waterbed mattresses and liners were officially classified in TSUS item 727.50, furniture of rubber and plastics, in accordance with U.S. Customs Headquarters Ruling CLA-2 CO:R:CV:b 069729 JLV, issued July 26, 1982. The current column 1 rate of duty is 2.4 percent ad valorem. Table 1 shows the pre-MTN Column 1 rate of duty, the staged reduction in the MFN rate of duty, and Column 2 rate of duty applicable to waterbed mattresses and liners. These articles, if products of beneficiary countries, may be imported free of duty under the Caribbean Basin Initiative (CBI).[4] No preferential treatment is afforded to imports from least developed developing countries (LDDC's).[5]

Tariff Treatment under the Proposed Harmonized System (HS).—Waterbed mattresses and liners are classified as follows under the HS:

Heading	Article description	Rates of duty	
		Col. 1—General	Col. 2
9403	Other furniture and parts thereof:		
9403.90	Parts:		
	Other:		
	Of rubber or plastics:		
9403.9050	Other [than of reinforced or laminated plastics].	2.4% ad val	25% ad val.

Structure of the domestic industry

The market for waterbeds, and their mattresses and liners, is growing, as what was a furniture fad maintains a strong presence in the bedding market. The domestic industry is estimated to consist of about 15–20 producers; at least 2 companies ceased production during 1984. The companies are generally small, privately held firms, most of which began operations in the 1960's when waterbeds first gained popularity. The 5 largest companies account for an estimated 20 to 30 percent of production. Total employment for the industry is estimated at less than 1,500, with producers located primarily in California—particularly the Los Angeles area—and in Maryland, Nebraska, Nevada, and Ohio.

Major companies and their locations include:
Vinyl Products, Carson City, Nevada.
Classic Corp., Jessup, Maryland.
Am. Nat'l Water Mattresses Corp., Orange, CA
Monterey Manufacturing, Carson, CA (LA.).
Wavecrest Co., Los Angeles, CA.
Land and Sky, Lincoln, Nebraska.
American Thermoseal, Southern California.
Kuss Corporation, Ohio.

Domestic production

As shown in table 2, estimated U.S. producers' shipments of waterbed mattresses and liners amounted to $75 million in 1984, up from about $44 million in 1980, but down somewhat from $80 million in 1983. Most of this amount was accounted for by waterbed mattresses, since only approximately $2 million in 1984 was accounted for by mattress liners. U.S. producers of mattresses manufactured an estimated 1.8 million mattresses in 1984 but only about 200,000 liners. Most U.S. manufacturers reportedly produce and sell liners at cost as a service to their mattress customers, since they find it difficult to compete with imported liners.

[4] The CBI affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBI, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[5] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column 1 applies.

U.S. imports

Separate statistics on imports of waterbed mattresses and liners were not collected until March 30, 1984. However, such imports are estimated to have increased significantly during the period 1980–84. In 1980, imports were estimated at approximately $3 million and consisted primarily of liners. As sales of waterbed mattresses increased in this country, total imports increased to an estimated $13 million by 1984. Nearly 1 million mattresses and 2 to 3 million liners were imported in 1984. The names and addresses of the importers are not available.

Industry sources indicate that the low cost of labor in Taiwan and Mexico, the principal sources of imported waterbed mattresses and liners, enables manufacturers in those countries to produce these articles and sell them in the U.S. market at prices approximately 25 to 30 percent lower than the domestic products. To compete more effectively, many U.S. manufacturers have reportedly moved their operations to Mexico or Taiwan, or directly importing themselves.

U.S. exports

Exports of domestically produced waterbed mattresses and liners have been negligible.

Apparent U.S. consumption

The estimated value of apparent U.S. consumption of waterbed mattresses and liners nearly doubled in the period 1980–84, rising from $47 million to $87 million (table 2). In terms of units, the U.S. market in 1984 was estimated at 2.3 to 3 million waterbed mattresses and 2.5 to 3 million liners, with domestic production supplying the bulk of the mattresses and imports supplying the bulk of the liners. In terms of value, the ratio of imports to consumption increased in the period, from 6 percent to 15 percent.

The United States is the major and probably the only large market for waterbed mattresses and liners. U.S. consumption is expected to increase as waterbed sales continue to grow.

Effect on revenue

Based on estimated 1984 imports of approximately $13 million, an increase in the rate of duty from 2.4 percent ad valorem to 40 percent ad valorem would result in an annual gain of $3.5 million in customs revenues. All imports would be subject to the higher duty rates since these articles are not eligible for duty-free entry under the GSP.

GATT comments

It should be noted that increasing the MFN duty rate above the level which has been bound by the U.S. Government would likely be viewed by other GATT members as a violation of our obligations under Article II and may result in the retaliatory withdrawal of concessions of equivalent benefit by such members. Neither Mexico nor Tawian are members of the GATT.

Table 1.--Waterbed mattresses and liners and parts thereof: U.S. rates of duty, by TSUS item

(Percent ad valorem)

TSUS item No.	Description	Pre-MTN col. 1 rate of duty 2/	Staged col. 1 rate of duty effective with respect to articles entered on or after Jan. 1--			
			1980	1981	1982	1983
727.53 1/	Waterbed mattresses and liners, and parts thereof.	6% ad val.	3%	2.4%	2.4%	2.4%

TSUS item No.	Description	Staged col. 1 rate of duty effective with respect to articles entered on or after Jan. 1--Continued				Col. 2 rate of duty
		1984	1985	1986	1987	
727.53 1/	Waterbed mattresses and liners, and parts thereof.	2.4%	2.4%	2.4%	2.4%	25%.

1/ Prior to April 1, 1984, waterbed mattresses and liners were classified under the provisions of TSUS item 727.50, Furniture of Rubber or Plastics, n.s.p.f., with the same duty structure.

2/ Rate effective prior to Jan. 1, 1980.

Table 2.--Waterbed mattresses and liners: U.S. producers' shipments, exports, imports, apparent consumption and ratio of imports to consumption, 1980-84 1/

(Millions of dollars)

Year	Producers' shipments	Exports	Imports	Apparent consumption	Ratio (percent) imports to consumption
1980	44	0	3	47	6
1981	58	0	5	53	9
1982	70	0	7	77	9
1983	80	0	10	90	11
1984	75	0	13	87	15

1/ Estimated by industry sources.

Source: Estimated by the staff of the International Trade Commission from data supplied by industry sources.

U.S. DEPARTMENT OF COMMERCE,
Washington, DC, June 24, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on H.R. 838, a bill "To amend the Tariff Schedules of the United States in order to establish equitable duty rates for waterbed mattresses, liners, and parts thereof."

This Department opposes enactment of H.R. 838.

H.R. 838 would increase both the column 1 and column 2 duties on waterbed mattresses, liners, and parts to 40 percent *ad valorem*. Waterbed mattresses, liners, and parts currently enter the United States under Tariff Schedules of the United States (TSUS) item 727.53 with a column 1 (MFN) duty of 2.4 percent *ad valorem* and a column 2 (statutory) duty of 25 percent *ad valorem*. The current MFN rate is the final rate resulting from the Tokyo Round of trade negotiations. As of April 1, 1984, TSUS 727.53 is not eligible for duty-free treatment under the U.S. Generalized System of Preferences.

Congress has provided, in section 201 of the Trade Act of 1974, for procedures under which domestic industries that believe they have been injured or threatened with injury by rising imports may petition the United States International Trade Commission (USITC) for relief. Where unfair foreign trade practices are involved, we believe that the antidumping and countervailing duty laws administered by this Department and the USITC provide adequate procedures for relief. Under these laws, additional duties may be imposed on imported products if they are being unfairly subsidized or offered for sale in the United States at less than fair value.

A recommendation by the USITC that relief be granted under section 201, and the imposition of additional duties under the antidumping and countervailing duty laws, must be based upon a finding of serious injury or threat thereof to the affected industry, and are thus consistent with United States international obligations under the General Agreement on Tariffs and Trade (GATT). The GATT requires a finding of injury to a domestic industry before import restrictions can be imposed.

Enactment of H.R. 838 would have the effect of circumventing the procedures for which the Congress has provided. Because H.R. 838 does not contain a requirement that injury be established, its enactment would be inconsistent with our GATT obligations, and could result in requests by our trading partners for compensation, or in retaliatory action against the United States.

Unilateral tariff increases are contrary to U.S. trade policy objectives. Such measures undermine our efforts to prevent similar actions by other countries, and are contrary to this Administration's commitment to avoid protectionist measures and reduce existing barriers to trade. In addition, tariff increases of this nature result in increased costs to consumers.

Based on 1984 levels of imports, enactment of H.R. 838 would result in an increase in revenue of approximately $3.5 million. Enactement of H.R. 838 would have no impact on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission or this report to the Congress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS,
General Counsel.

WASHINGTON, DC, *June 28, 1985.*

JOSEPH K. DOWLEY, Esq.,
Chief Counsel, Committee on Ways and Means,
U.S. House of Representatives, Washington, DC.

DEAR MR. DOWLEY: This statement is opposition to H.R. 838, a bill "to amend the Tariff Schedules of the United States in order to establish equitable duty rates for waterbed mattresses, liners, and parts thereof" is filed on behalf of Intex Corp., an American manufacturer of polyvinyl plastic sheet and film and an importer of waterbed mattresses and liners from the Far East. The bill would increase both the column 1 (most favored nation—MFN) and column 2 (statutory) rate of duty in tariff item 737.53 to 40 percent *ad valorem*. The current rates of duty are 2.4 percent *ad valorem* under column 1 and 25 percent *ad valorem* under column 2.

Intex Corp., a United States company which has its headquarters office in Long Beach, California, and a 700,000 square-foot plastics calendering facility in Corinth, Mississippi, employs over 600 American workers in the production of polyvinyl plastic sheet and film, and the development, marketing and sales of various plastics products and toys manufactured in the Far East. Included among the products imported by Intex are waterbed mattresses and liners produced in Taiwan.

If enacted into law, H.R. 838 would have its desired effect: Intex Corp. and other waterbed mattress and liner importers would be prevented from importing these products into the United States, and those companies assembling waterbed mattress and liners in the United States would have created an entirely closed market, free from all foreign competition. In the case of Intex Corporation, such a result would adversely affect its profitability and would jeopardize the viability of its 600-strong workforce.

The following summarizes the reasons why this bill should not be enacted:

1. There are no changed circumstances from 1984 when the Committee rejected an identical bill (H.R. 5469).

2. The proponent of the bill has failed to utilize the adequate remedies available under the Trade Act of 1974.

3. All objective evidence shows a boom market in the industry, and an investigatory proceeding under the Trade Act is the only legitimate means of assessing the competitive situation.

4. The current MFN duty rate is bound under the GATT and any legislative increase would violate that agreement and expose the U.S. to compensation or retaliation.

In 1984, the proponent of H.R. 838 had introduced an identical bill H.R. 5469. The Committee rightly concluded that a preposterous tariff increase of 1,667 percent was not justified under the prevailing circumstances. Nothing has changed since then, yet the same proponent, the Waterbed Manufacturers Association (WMA) returns to this Congress once again asking the U.S. consumer to foot the bill to give it a totally closed market.

As pointed out in our comments on H.R. 5469, the U.S. waterbed industry has absolutely no need for the protection which would result from such a duty increase. We quote from our May 17, 1984 and June 13, 1984 letters to Chief Counsel John J. Salmon, Esq., and Trade Subcommittee Staff Member George J. Weiss, repectively, on this point:

"In a petition dated June 1, 1983, the Waterbed Manufacturers Association (WMA) advised the Trade Policy Staff Committee (TPSC) that WMA members had experienced a period of extraordinary growth and prosperity during the past 8 years. From 1975 through 1982, domestic waterbed mattress production increased 767 percent from 263,000 to 2.3 million units; sales revenue increased 718 percent from $7.9 million to $65 million; and gross profit increased 1302 percent from $1 million to $14.5 million. In 1982, the domestic industry experienced the most profitable year in its history, with gross profit as a perecentage of sales reaching 22.24 percent, 28 percent greater than the average for the prior 5 year period. And in 1982, the domestic industry utilized 54 percent of its continuously expanding production capacity, the highest capacity utilization rate in history.

Thus, by its own admission, the domestic industry is prospering, a result which is further evident from reviewing an article entitled "Waterbed Sales Increase 18 Percent", which appeared in the October 1983 Waterbed Magazine (at page 40), attached hereto as an Exhibit. In an industry where several manufacturers 'don't even have an inventory and are shipping directly from the production floor', it is ludicrous to deprive American consumers of waterbed and waterbed liners by eliminating imports by imposing a 40 percent rate of duty.

* * * * * * *

"Retail sales figures for 1983 are now in, and the trend clearly continues.

"Attached is a copy of an article appearing in the April 1984 issue of 'Waterbed Magazine' in which the WMA boasts that unit sales of waterbeds reached 2.5 million, an increase of 23 percent over 1982 and the industry's largest annual increase ever. Retail sales for the first time broke the $2 billion mark. The article also reports that the industry is enlarging its maket share for the total sleep equipment market and that the accelerating growth trend is firmly established. To the same effect is the attached copy of the cover of the May 1984 issue of 'Flotation Sleep Industry', a trade journal, showing strong growth rates in profitability and unit sales. By the WMA's own admission, domestic producers now have 80 percent of this expanding market. The continuing boom market reflected in these publications fur-

ther confirms the total lack of justification for the extraordinary measure the proponents of H.R. 5469 seek."

The boom market goes on. In 1984 unit sales of waterbeds reached 3.4 million, up 30% from the 1983 record of 2.5 million. See attached copy of an article from the June 10, 1985 issue of Furniture Today, trumpeting "Waterbed Sales Wave Shows Major Upsurge: Study Outlines Dramatic Gains Over Last Two Years." Moreover, more waterbeds will be sold in 1985 than in any other year in the industry's history, according to a survey conducted for the WMA by Facts Consolidated. One out of every four homes now has a waterbed, an all-time record. See attached copies of various newspaper articles reporting on this survey and trend. See also the attached copy of a February 18, 1985 WMA memorandum in which it boasts that "It should be noted that with the exception of recessionary year 1982, we have maintained close to a 25 to 30 percent annual growth rate without any generic advertising program."

This trend in sales and profitability, evident during the Committee's consideration of the proposed tariff increase in 1984, clearly continues today. There being no convincing evidence of a material change in the U.S. industry's condition, the Committee should once again decline to accept the invitation of a few businesses to prohibit competition in an expanding market so that they may realize extraordinary profits.

Given the condition of the market, it is not surprising that this industry has eschewed the traditional methods under the Trade Act of 1974 of seeking import relief. The Committee should not allow this industry to by-pass those remedies which Congress has established, consistent with the GATT standards, for U.S. industries who feel aggrieved by imports. Enactment of this bill would set a dangerous precedent by signaling other specialized segments of American industry that traditional trade relief measures need not be followed. Indeed, the investigatory proceedings provided under the Trade Act of 1974 are the *only* appropriate method of assessing the competitive position of the U.S. waterbed industry. If this industry has a legitimate complaint of injury and/or unfair competition, let it bring the case to the appropriate forum, which clearly is not Congress.

Lastly, enactment of this bill would violate the GATT and expose the U.S. to compensatory claims and possible retaliation. The current MFN duty rate of 2.4 percent *ad valorem* is the final rate resulting from the Tokyo Round of trade negotiations. As such, the rate is "bound" under the GATT. An increase such as is proposed, without the formal findings required in any of the import relief proceedings established by law would violate our GATT commitments. This country would be subject to a claim for compensation or to retaliation by affected countries. It simply does not make sense to jeopardize other industries' trading interest for the sake of one where injury has not been demonstrated through established administrative procedures.

In sum, in the absence of any formal finding, required by law, that the U.S. waterbed and water mattress industry is being adversely affected by reason of imports, and in view of the substantial evidence that this industry is experiencing unprecedented growth and prosperity, H.R. 838 should not be enacted into law.

Intex Corp. thanks the Committee for the opportunity to submit these comments and will gladly submit additional evidence in support of its position upon request.

Respectfully submitted,

SHARRETTS, PALEY, CARTER, BLAUVELT, P.C.,
Attorneys for Intex Corp.
(By: RICHARD M. BELANGER).

(Attachments have been retained in the committee files.)

STATEMENT OF THE WATERBED MANUFACTURERS ASSOCIATION

SUMMARY

The American manufacturers currently competing in the U.S. waterbed market are the industry's pioneers worldwide. The industry originated in this country and our manufacturers continue to be leaders in design and production technology. The domestic market for waterbeds is growing at a rapid pace, but domestic manufacturers are losing sales to imports manufactured in Taiwan and Mexico where direct wage rates are $1.50 per hour and lower. In the last four years, imported waterbed liners have jumped from 47 percent to 94 percent of the U.S. market. More importantly, the offshore producers have now made significant inroads in the waterbed mattress market, the foundation and essence of the industry. We estimate that 36

percent of the mattresses sold in 1984 were imported; three years ago there were virtually no imports of mattresses.

Until 1982, imported waterbed mattresses and liners, manufactured principally in Taiwan of PVC plastic, were classified for tariff purposes as mattresses; the current tariff on mattresses is 8.3 percent. On July 26, 1982, the U.S. Customs Service determined that these products were not mattresses and concluded that they should be classified under a "basket category" as parts of furniture; the current tariff on that classification is 2.4 percent.

Until last year, however, the tariff classification of waterbed liners and mattresses had not been a critical issue, for most imports entered the United States without duty under the Generalized System of Preferences. On June 1, 1983, the Waterbed Manufacturers Association filed with the Office of the United States Trade Representative a petition seeking the immediate withdrawal of these products from the GSP list. On March 27, 1984, the Office of the United States Trade Representative announced that the WMA petition had been granted. Effective March 30, 1984, waterbed mattresses, liners and parts thereof were assigned a new tariff classification, TSUS 727.5300, which is ineligible for duty-free entry under the GSP.

H.R. 838 would raise the duty on these products to a level which is equitable and which does not foreclose foreign products from contined access to the U.S. market. The proposed tariff is fair because:

Domestic manufacturers lost money for years while creating consumer acceptance of the product;

Domestic technology is ahead of the rest of the world but is easily copied;

The Taiwanese and Mexican labor, material, and overhead advantage is estimated to be 60%;

The higher tariff will *not* exclude the foreign product from the market, because those products would still retain a price advantage; the higher tariff will permit domestic manufacturers to continue to compete;

If an American manufacturer wanted to ship a waterbed to Taiwan or Mexico, the duty would be 50% in each country;

A higher tariff would not raise prices to consumers because the lower price of the wholesale import is *not* currently being passed on; instead, retailers are enjoying a higher mark-up on the imported goods.

Two domestic companies have already gone bankrupt and a number have moved offshore. Without a fair duty, more companies will go bankrupt and those remaining in existence will be forced to move offshore to compete. In either event, American workers in a uniquely American industry will lose their jobs.

Simply stated, if a higher tariff is not obtained, the domestic waterbed manufacturing industry will cease to exist. If a fair tariff is obtained, the foreign competition will not be excluded from the U.S. market. Rather, it will merely be forced to compete on a level playing field.

Recommendation: The Waterbed Manufacturers Association respectfully urges the Subcommittee's favorable consideration of H.R. 838.

STATEMENT

Introduction

H.R. 838 would increase the duty rate on waterbed mattresses and liners from the current level of 2.4 percent to 40 percent *ad valorem*. The WMA members who support this legislation account for approximately 75 percent of the domestic manufacture of those products.

WMA's members produce more than mattresses and liners, however. Other end products include furniture, heaters, accessories, linens, hardware, bed frames and wall decorations. Each of those segments of the industry, through its membership in WMA, supports H.R. 838. Without this much needed tariff increase, the domestic manufacturers of waterbed mattresses and liners will be forced to close their doors, leaving several thousand Americans unemployed.

While some may label this legislation "protectionist", it does not deserve the negative connotation which generally accompanies that term. H.R. 838 would protect American jobs in an industry founded and nurtured in America, but it would do so without excluding foreign products from the U.S. market. A 40 percent duty would raise the wholesale *price* of an imported king size watermattress to approximately $15.30. The comparable domestically produced mattress costs the U.S. manufacturer (*before profit*) approximately $18.89; the price to retailers would approach $21.00. Thus, were a 40 percent duty imposed, an American retailer could still purchase the imported product for less than the domestic product. The presence of that duty, however, would make the domestic product more competitive and would enable do-

mestic waterbed mattress manufacturers to attempt to retain a significant percentage of their customers by relying upon shorter delivery times, ease of post-sale service and other non-price variables.

The Waterbed Industry

Waterbed mattresses and liners, the products addressed in H.R. 838, are made of polyvinyl chloride (PVC) plastic sheeting. A liner is typically a single sheet of PVC plastic with welded corners; the liner serves as a layer of protection between the mattress and the bed frame. Liners are sold at retail from $6.00 to $20.00 per unit.

The mattress itself is also manufactured from PVC sheeting. Rolls of the sheeting are cut to a desired configuration and then, through the use of various heat-sealing procedures, formed into a mattress which will hold water. The cutting and welding processes are very labor intensive and, due to the characteristics of the vinyl, are not susceptible to automation or the use of robots. A basic king size waterbed mattress retails for $40 to $100. More technologically advanced mattresses, developed in the United States and incorporating fiber and/or PVC water chambers (so-called "hydraulic" mattresses) as wave inhibitors, are also manufactured offshore and imported into the United States. These mattresses retail at substantially higher prices.

The waterbed industry was born in the United States about 15 years ago. It was then, and continues to be, an industry characterized by small to medium-sized companies founded and operated by entrepreneurs who took a risk on what, in the 1960's, was considered a fad market. During the early and mid-1970's, this small group of American entrepreneurs invested their time and financial resources, most often without earning a profit, to convince the American consumer that the waterbed was not a passing fad. By the end of the 1970's that effort had paid off. The waterbed industry had become accepted as a legitimate segment of the bedding industry. Indeed, for every 100 mattress sets sold in the United States in 1984, at least 19 were waterbeds. That year approximately 3.4 million waterbed mattresses were sold in the United States at a total retail price of approximately $300 million. In 1984 the entire waterbed market, including frames, linens and accessories, accounted for $2.5 billion in retail sales. Manufacturers of waterbed mattresses and liners, literally 2- and 3-person shops in the late 1960's, employed in excess of 2,000 workers in 1984.

Unfortunately for those entrepreneurs and their employees, several manufacturers of plastic inflatable products located in Taiwan saw the dramatic increase in the U.S. waterbed market as an opportunity to expand their product lines. Realizing that the manufacture of waterbed mattresses and liners was labor intensive and required technology no different than that which they already employed, they began to produce waterbed liners. By 1984, 94 percent of the waterbed liners sold in this country were manufactured abroad, primarily in Taiwan (see Exhibit A). In an expanding market, domestic manufacturers' sales were plummeting.

Having captured virtually the entire liner market, the offshore manufactures then turned their attention to waterbed mattresses. Imported mattresses accounted for a negligible percentage of the U.S. market in 1982. By 1983, however, imported mattresses, again primarily from Taiwan, accounted for approximately 26 percent of the total U.S. market. By 1984, imports had captured 36 percent of the U.S. waterbed mattress market (see Exhibit B). More importantly, the lower price of the imported product had forced domestic manufactures to reduce their prices to unprofitable levels. Although U.S. manufacturers were operating at only 54.2 percent of capacity (see Exhibit C) their sales were down and the growth in the market was captured entirely by imports. Together the Taiwanese and Mexican facilities already in production have the capacity to supply a market several times the size of the U.S. market. Absent the imposition of a fair duty, it is not unreasonable to predict that domestic producers will disappear within several years.

While the U.S. market is growing in 1985, the domestic producers' share of that growing market is decreasing. As market share decreases, the downward pressure on prices generated by less expensive imports will result in increased losses by the domestic industry. In an effort to survive, a number of companies have already gone offshore. If H.R. 838 is not enacted, more will follow. American workers, a number of whom have already been laid off, will be the losers in the end.

The Offshore Advantage

Most disturbing to American manufacturers is the fact that they are virtually helpless in the face of offshore competition which arose only after the U.S. market was developed. Those who support H.R. 838 endured the unprofitable start-up phase of the waterbed industry in this country. They refined waterbed design, improved production technology and convinced the American consumer to accept the idea of flotation sleep. Now, after that groundwork has been completed, manufacturers in

Taiwan and Mexico, taking advantage of their significant cost advantage, have stepped in to serve the market which legitimately belongs to the American developers of the industry.

The attraction of the imported product to American wholesalers and retailers is fundamental: price. Producers located in Taiwan and Mexico, enjoying substantial material and labor cost advantages, are able to wholesale their products in the U.S. for less thn it *costs* an American company to manufacture comparable products. In other words, the offshore manufacturer's *price* for products delivered in the U.S., which price includes profit, is less than domestic production *cost*. For example, a king size waterbed mattress which *costs* the average domestic company $18.89 to produce, costs the Taiwanese only $10.59. Taiwanese companies have offered to sell these mattresses in the United States for $11.10 per unit (see Exhibit D). Attached as Exhibit E is a cost comparison which shows the $2.93 material cost advantage, the $2.25 labor cost advantage and the $3.12 overhead cost advantage enjoyed by the Taiwanese. One sees a total cost advantage of $8.30 on a product which the Taiwanese offer for sale at $11.10. The American manufacturer's *cost* exceeds the Taiwanese *price* by $7.79. Were a 40 percent duty applied to the hypothetical customs value of $10.43 ($11.10 invoice price minus $.67 transportation cost), an additional $4.17 would be added to the wholesale price of the import, bringing it to $15.27, an amount still less than the American producer's cost.

If cost comparisons are made for waterbed liners and queen size mattresses, the results are the same The Taiwanese have offered king size liners for $2.00 delivered in the U.S.; the comparable product costs the domestic manufacturer $3.32. A queen size mattress which costs the U.S. producer $16.00 to produce is being offered for sale by a Taiwanese manufacturer at $9.90. And now the Taiwanese are manufacturing and offering fiber-filled and hydraulic mattresses at well below the U.S. manufacturing cost. This segment of the market, once thought to be safe from import competition, will be the next to fall absent a fair tariff.

Clearly then, the domestic industry is at a competitive price disadvantage. The reasons for that disadvantage are several. First, the offshore competition comes not from small business, but rather from corporate giants. Intex Plastic Sales Co. is a subsidiary of Long Beach California-based Intex Corp., a conglomerate with estimated annual sales of $125 million. Index Plastic, which manufactures waterbed mattresses and liners in Taiwan, has predicted that it alone will have 50 percent of the U.S. waterbed business by 1986. The primary Mexican manufacturer of waterbeds is a subsidiary of Ohio Mattress Co., the world's second largest bedding manufacturer.

If the size of the offshore competitors were the only obstacle confronting the domestic industry, a tariff increase might be neither necessary nor warranted. Labor, material, and overhead advantages enjoyed offshore are the factors which weigh heavily in favor of a tariff increase.

A recent WMA survey determined that the average direct hourly wage paid to domestic production workers in this industry is $6.22. This figure does not include any amount for employer-paid benefits. By comparison, the Taiwanese waterbed industry workers are paid $1.25 per hour and less. The Mexican workers are paid approximately $1.50 per hour and less. Stated differently, the amount that the average Taiwanese or Mexican employee is paid for his 48 hour work week is little more than that paid to an American employee for a single 8 hour shift. Even the U.S. minimum wage level is almost three times the labor rate paid by many offshore manufacturers. In an industry in which labor accounts for almost 20 percent of total production most, a 500 percent labor cost advantage is significant.

The offshore material cost advantage is even greater than the labor cost advantage. A king size mattress requires approximately 14.2 pounds of vinyl. Domestic vinyl costs approximately $.78 per pound, or $11.07, for the amount necessary to produce a mattress. In Taiwan, the price is approximately $.60 per pound, or $8.52. In Mexico, the price lies somewhere between $.64 and $.67 per pound. A 30 percent material cost advantage is extremely significant in an industry in which approximately 60 percent of the cost of production is attributable to material.

Finally, the Taiwanese manufacturers' overhead advantage is significant due to the virtual absence of workmen's compensation, unemployment, social security, and other similar contributions which are required of employers in this country. While some employee taxes exist in Mexico, they are significantly less than those paid in the United States.

To summarize, the offshore cost advantage is significant and is not likely to change. The Taiwanese and Mexicans, able to charge less and still make a profit, have captured virtually the entire waterbed liner market. Unless the duty rate is increased, the waterbed mattress market will soon be lost as well.

History of Tariff Treatment

Until 1982, all waterbed mattresses and liners entering the United States from abroad were classified under TSUS 727.8630 as mattresses of other than cotton. The current rate of duty on that classification is 8.3 percent *ad valorem.*

On July 26, 1982, however, the Customs Service changed its position, concluding that waterbed mattress and liners were not mattresses, but rather were "parts of furniture, not specially provided for, of rubber or plastics," under TSUS 727.5000. The current duty on that classification is 2.4 percent *ad valorem.*

Because both customs classifications were eligible for preferential treatment under the Generalized System of Preferences, and the sources of waterbed mattresses and liner imports were countries eligible for duty-free entry under the GSP, no duty was assessed upon those goods.

On June 1, 1983, the WMA filed a petition with the Office of the U.S. Trade Representative seeking the removal of waterbed mattresses and liners from the list of goods eligible for the GSP. On March 27, 1984, U.S. Trade Representative William Brock announced that the WMA petition had been granted. Thus, effective March 30, 1984, waterbed mattresses and liners were assigned a new tariff classifications, TSUS 727.5300. Goods entering the country thereunder are not eligible for GSP treatment, but rather are to be assessed a duty of 2.4 percent *ad valorem,* the same rate as would have been assessed under TSUS 727.5000.

Effect of H.R. 838

Were the traiff on waterbed mattresses and liners to be raised to 40 percent, WMA submits that the ability of offshore manufacturers to capture the *entire* U.S. market would be reduced, but their ability to compete effectively in this country would be unaffected. After assessment of a 40 percent tariff, the price of the imported product to retailers would still be less than that which could be quoted by a domestic manufacturer. The domestic industry believes, however, that it could retain a significant percentage of its customer base by relying upon shorter delivery times, proximity, ease of post-sale service and other non-price variables. Those customers whose purchasing decisions are based solely or primarily upon price could and would continue to buy the less expensive imported merchandise.

WMA submits that the effect of a tariff increase upon *consumers* will be minimal. In the waterbed industry, retail prices are generally twice those charged at the wholesale level. Thus, a domestic mattress that wholesales for $20.00 is usually sold at retail for approximately $40.00.

We have reason to believe that a majority of imported mattresses, purchased by retailers for $12.00, are also selling at retail for up to $40.00. In other words, it is WMA's belief that many retailers have *not* passed on to the consumer the savings they have experienced due to purchases of less expensive imported products. Rather, retailers are merely increasing their mark-up. A retailer advertisement, published repeatedly in the waterbed trade press, encourages opposition to H.R. 838 *not* because of its effect on the prices *consumers* pay, but rather because of its effect on the prices paid by and, therefore, the profits made by *retailers* (see Exhibit F).

The WMA conducted an informal telephone survey of waterbed retailers throughout the United States to attempt to determine whether those retailers were making higher profits on imported mattresses by increasing mark-ups. The results of this informal survey are instructive and serve to confirm the view held by the WMA.

Over 100 retailers in 34 states were surveyed (see Exhibit G). Based upon statements made by representatives of those retailers, it appears that only 3 are selling imported free-flow mattresses, purchased for less than $15, for less than $30. It further appears that 16 retailers are selling imported free-flow mattresses in the $30 to $40 range and 48 are selling them in the $40 to $50 range. Irrespective of the *degree* of the statistics' accuracy, the fact that only 3 of the retailers surveyed are offering imported mattresses at the customary mark-up buttresses the claim the lower wholesale cost of imported mattresses is not being passed along to the American consumer.

Thus, if a 40 percent duty raises the wholesale price of an imported matters to $15.30, or even to $17.00 or $18.00, the higher domestic wholesale price should still act as a cap upon retail prices. WMA sincerely believes that a higher duty on imported mattresses and liners will have little or no effect upon the prices consumers pay for those products at retail.

Effect of No Duty Increase

If a 40 percent duty is imposed, neither foreign manufacturers nor American consumers will suffer to any appreciable degree. If, on the other hand, the duty remains at its current 2.4 percent level, the domestic companies who founded this in-

dustry will be forced either to abandon the waterbed business altogether or to move offshore themselves. Many members of WMA are now purchasing mattresses and liners from Taiwan and at least three WMA members have opened offshore manufacturing facilities. The trend is clear: absent an equitable duty rate which will facilitate competition, the American pioneers of the waterbed business will become a part of history. As a consequence, the unskilled and semi-skilled workers they employ will find themselves without work.

Conclusions

Three American businessmen whose companies are endangered by low cost imports of waterbed mattresses and liners testified before the GSP Subcommittee of the Trade Policy Staff Committee, Office of the U.S. Trade Representative, in September 1983. They stated at that time (1) that imported waterbed mattresses would soon account for a substantial percentage of the U.S. market and (2) that, out of a need to survive, they woud be forced by move offshore if an equitable duty is not imposed upon waterbed mattresses and liners. The first of these statements has already become a reality: imports jumped from 4 percent in 1982 to 26 percent in 1983 to 36 percent in 1984. All three of those domestic manufacturers are now importing a percentage of their products. In the months since the GSP hearing, two companies have gone out of business and a number have been forced to set up offshore production facilities. WMA truly believes that H.R. 838, as its preamble states, provides for "equitable" tariff treatment of waterbed mattresses and liners. Assessment of the bill's rate of duty (1) would still give the foreign manufacturers a price advantage, (2) would not affect the prices consumers pay at retail, and (3) would permit the founders of this industry to continue to manufacture waterbed mattresses and liners in the United States. *In a comparative sense, the bill is more than equitable, for waterbeds exported to Mexico and Taiwan are assessed duties of 50 percent.*

The members of the Waterbed Manufacturers Association who support H.R. 838 feel that their industry and its problems are unique. WMA's position is different from those of other industries who seek similar legislation; our members are *not* making huge profits and our employees are *not* being paid excessive wages. The waterbed industry does *not* lag behind the foreign competition with respect to production facilities or new technology; our members are the leaders worldwide in those areas. WMA does *not* seek to eliminate foreign competition but merely to place all competitors on more equal footing. Our members took substantial risks in the late 1960's, endured the unprofitable years of the industry's infancy and now, when the industry had gained acceptance and legitimacy, see the market being lost to imports.

In the final analysis, the jobs of American workers are at stake. Admittedly, the domestic waterbed mattress and liner industry is not a "large" employer when compared to other industries. The waterbed industry is, however, a growth industry and, without H.R. 838, the prospect for additional American jobs will be lost. Further, the raw material suppliers of the American industry, the vinyl producers, the manufacturers of fiber, the makers of the machinery used in the waterbed mattress manufacturing process, and others all stand to lose valuable customers if production is shifted offshore.

The Waterbed Manufacturers Association therefore respectfully urges the Committee to give favorable consideration to the passage of H.R. 838. Questions or other inquiries may be addressed to WMA's Washington counsel: C. Michael Deese, Webster, Chamberlain & Bean, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006, (202) 785–9500.

(Attachments to the statement have been retained in the committee files.)

H.R. 839

Relating to the marking of containers of imported mushrooms

See statement of California Farm Bureau Federation, Henry Voss, under H.R. 110.

U.S. International Trade Commission

Section-by-section analysis

The proposed legislation (which is drafted as a single section) would provide that imported preserved mushrooms would not be in compliance with the marking provisions of section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) unless the containers indicate in English the country in which the mushrooms were grown. This legislation would not amend any existing statute or affect any existing rates of duty on imported articles.

Background and justification

Description and uses.—The term "mushroom" refers to the edible portion (the fruiting body) of the mushroom fungi. Two species of mushrooms are commonly grown and processed throughout the major mushroom-producing countries, *Agaricus bisporus* and, to a much lesser extent, *A. bitorquis*. The four types of *Agaricus* commonly marketed in the United States are the white, off-white, creme, and brown mushrooms. Such mushrooms are marketed fresh, dried, frozen, or canned.

In the United States, about two-fifths of the mushrooms consumed are fresh, and the remainder are processed. The great bulk of processed mushrooms are canned. These mushrooms are usually packed in a light brine solution; however, small quantities are packed in vinegar (pickled mushrooms), in wine (mushrooms in wine), in oil (marinated mushrooms), or in water (natural pack). Mushrooms canned in brine are used largely for the same purposes as fresh mushrooms, including as a garnish with meats and other foods; they are also served separately or in gravies, sauces, relishes, salads, and soups. Mushrooms preserved in mediums other than brine or butter have limited uses, mainly as appetizers and snacks. Some consumers will freely substitute canned mushrooms for fresh mushrooms for specific purposes.

Canned mushrooms account for the bulk of U.S. imports of "otherwise prepared or preserved" (i.e., other than fresh or dried) mushrooms. Most of the imported canned mushrooms are of the same genus and species as those canned in the United States and are comparable in flavor and appearance. The bulk of these imports are packed in a light brine solution, with small quantities preserved in vinegar, wine, or oil. Dried mushrooms, also covered by this legislation, comprise only a small portion of imports of otherwise prepared or preserved mushrooms.

U.S. imports of canned mushrooms enter in all conventional container sizes and styles of pack. However, about two-thirds of these imports are in institutional-size containers (holding over 9 ounces each); in 1984, 69 percent (by volume) of other (i.e., other than frozen or straw) canned mushrooms were in such container sizes. Since early 1981, entries of prepared or preserved mushrooms packed in a heavy salt solution in large containers (primarily 5- and 20-gallon plastic and 55-gallon steel drums) have been increasing. These are fresh mushrooms grown in the People's Republic of China (China) which have been cooked and then saturated with a heavy salt solution. Upon arrival in the United States, the mushrooms are washed and desalted before being subjected to conventional canning processes by domestic firms. Since 1980, the principal foreign suppliers of all canned mushrooms have been Taiwan, China, Hong Kong, and the Republic of Korea (Korea), with Spain and the Netherlands shipping significant amounts in 1984.

Justification.—Domestic mushroom processors are concerned that consumers are unable to differentiate between domestically grown and foreign-grown processed mushrooms. Thus, stating on the label the country in which the raw mushrooms were grown would enable the consumer to identify products processed from mush-

rooms grown in the United States as opposed to those from foreign-grown mushrooms, regardless of the processed products' brand names.

Prior investigations

Processed mushrooms have been the subject of several import relief investigations by the Commission since 1976. On March 10, 1977, the President, pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), requested that the Commission conduct an investigation to obtain certain information necessary for the monitoring of import competition in the domestic market for canned mushrooms. More specifically, the Commission was asked to prepare quarterly statistical reports providing the following information on canned mushrooms: production, sales, and inventories of U.S. producers, according to container size and style of pack; U.S. imports for consumption (total and by country or orgin); U.S. exports, to the extent they could be readily determined; and apparent U.S. consumption. The Commission has subsequently issued 22 quarterly statistical reports on canned mushrooms.[1]

As a result of an investigation in 1980,[2] the rate of duty on imports entered under Tariff Schedules of the United States (TSUS) item 144.20 was temporarily increased by Presidential proclamation during the period November 1, 1980, to October 31, 1983.

On May 28, 1981, the Commission instituted an investigation under section 203(i)(2) of the Trade Act of 1974 to gather information in order to advise the President of its judgment as to the probable economic effect on the domestic industry concerned of the termination of part of the import relief then in effect with respect to specified mushrooms. The Commission's report, *Certain Mushrooms: Report to the President on Investigation No. TA-203-9 . . .*, USITC Publication 1184, September 1981, was sent to the President on September 11, 1981. On February 27, 1982, the President determined that it was in the national interest to terminate the increased rates of duty currently in effect on imports of certain mushrooms and to retain the increased rates of duty on imports on other mushrooms as previously proclaimed.

On December 29, 1981, the Commission instituted investigation No. TA-203-13 under section 203(i)(1) and (i)(2) of the Trade Act of 1974 to gather information in order to advice the President (1) on developments in the mushroom industry since import relief became effective, including the progress and specific efforts made by the firms in the industry to adjust to import competition, and (2) of its judgment as to the probable economic effect on the domestic industry concerned of the reduction or termination of the import relief in effect with respect to canned and frozen mushrooms broiled in butter or in butter sauce, provided for in item 144.20 of the TSUS. The Commission's report, *Certain Mushrooms: Report to the President on Investigation No. TA-203-13 . . .*, USITC Publication 1239, April 1982, was sent to the President on April 15, 1982. The Commission advised that terminating import relief on the subject mushrooms would have an adverse economic effect on the domestic industry concerned.

On July 9, 1982, the Commission instituted an investigation under section 406(a) of the Trade Act of 1974 (19 U.S.C. 2436(a)), to determine, with respect to imports of canned mushrooms from China, whether market disruption existed with respect to an article produced by a domestic industry. On the basis of information developed in the course of the investigation, the Commission was equally divided in its determination. The Commission's report, *Canned Mushrooms From the People's Republic of China: Report to the President on Investigation No. TA-406-9 . . .*, USITC Publication 1293, September 1982, was sent to the President on September 30, 1982. The President took no action as to articles covered by this investigation.

On October 18, 1982, counsel for the Four "H" Corp., Imlay City, Mich., filed a petition concurrently with the Commission and the Department of Commerce alleging that an industry in the United States was materially injured, or was threatened with material injury, or the establishment of an industry in the United States was materially retarded, by reason of imports from China of prepared or preserved mushrooms, other than frozen, provided for in item 144.20 of the TSUS, which were allegedly being sold at less than fair value (LTFV). Accordingly, effective October 18, 1982, the Commission instituted a preliminary investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b). On December 2, 1982, the Commission

---

[1] The Commission's most recent quarterly report, *Processed Mushrooms . . . Report to the President on Investigation No. 332-84 . . .*, USITC Publication 1655, February 1985, was sent to the President on Feb. 28, 1985.

[2] The Commission's report, *Mushrooms: Report to the President on Investigation No. TA-201-43 . . .*, USITC Publication 1089, August 1980, was sent to the President on August 18, 1980. *See* Presidential Proclamation 4801, October 29, 1980.

determined that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports of canned mushrooms from China which were alleged to be sold at LTFV. The Commission's report, *Canned Mushrooms From The People's Republic of China* (investigation No. 731-TA-115 (Preliminary), USITC Pub. 1324, December 1982), containing the views of the Commissioners and information developed during the investigation, was sent to the Secretary of Commerce on December 2, 1982.

On March 1, 1983, Commerce determined that the case was "extraordinarily complicated," as defined in section 733(c) of the Tariff Act of 1930, and extended the period for making its preliminary determination until May 16, 1983. On May 20, 1983, the Department of Commerce made a preliminary determination that there was a reasonable basis to believe or suspect that imports from China of canned mushrooms were being, or were likely to be, sold in the United States at LTFV within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. § 1673).

Following receipt of a petition filed on April 29, 1983, the Commission, effective May 11, 1983, instituted investigation No. TA-203-14 under section 203(i)(3) of the Trade Act of 1974 (19 U.S.C. § 2253(i)(3)) to gather information in order to advise the President of its judgment as to the probable economic effect on the domestic industry concerned of the extension of the import relief then in effect with respect to certain mushrooms. On June 15, 1983, the Commission received a letter from counsel for the petitioners, withdrawing their petition. Accordingly, on June 23, 1983, the Commission terminated its investigation.

As a result of the affirmative preliminary determination of LTFV sales by the Department of Commerce, the Commission instituted investigation No. 731-TA-115 (Final), effective June 10, 1983, to determine whether an industry in the United States was materially injured, or was threatened with material injury, or the establishment of an industry was materially retarded, by reason of the importation into the United States of canned mushrooms from China. However, effective October 5, 1983, Commerce determined that canned mushrooms from China neither were nor were likely to be sold in the United States at less than fair value, and terminated its investigation. As a result, pursuant to its authority under section 207.20 of the Commission's Rules of Practice and Procedure, the Commission's antidumping investigation (No. 731-TA-115 (Final)) concerning canned mushrooms from China was also terminated, effective September 30, 1983.

Comparison with present law

Tariff treatment under the TSUS.—Preserved mushrooms are provided for in TSUS items 144.14, 144.16, and 144.20. They include air dried and sun dried mushrooms, otherwise dried mushrooms, frozen mushrooms, straw mushrooms other than frozen, and other prepared or preserved mushrooms in all container sizes and styles of pack. The current rates of duty for all prepared or preserved mushrooms are shown in table 1, including the column 1 rates [3] and applicable staged reductions granted during the Tokyo round of the Multilateral Trade Negotiations (MTN). No LDDC rate of duty [4] is provided for item 144.20; the same column 2 rates of duty are applicable under all three items.[5] Only air dried or sun dried mushrooms provided for in item 144.14 may be entered free of duty from designated beneficiary developing countries under the Generalized System of Preferences (GSP).[6] Imports under all

---

[3] The rates of duty in rate duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Initiative (CBI), or under the "LDDC" rate of duty column.

[4] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[5] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[6] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

three TSUS items from beneficiary countries are eligible for duty-free entry pursuant to the Caribbean Basin Initiative (CBI).[7]

[7] The CBI affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBI, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

Table 1.—Mushrooms, dried, or otherwise prepared or preserved: U.S. rates of duty, by TSUS items

(Cents per pound; percent ad valorem)

TSUS item No. 1/	Description	Pre-MTN col. 1 rate of duty 2/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
	Mushrooms:										
144.14 A	Air dried or sun dried 3/—	3.2¢ + 10%	2.9¢+ 9.3%	2.7¢+ 8.5%	2.4¢ + 7.8%	2.2¢+ 7%	2¢ + 6.3%	1.8¢+ 5.5%	1.5¢+ 4.8%	1.3¢ +4%	10¢ + 45%.
144.16	Otherwise dried 3/————	3.2¢ + 10%	2.9¢+ 9.3%	2.7¢+ 8.5%	2.4¢+ 7.8%	2.2¢+ +7%	2¢ + 6.3%	1.8¢+ 5.5%	1.5¢+ 4.8%	1.3¢+ 4%	10¢ + 45%.
144.20	Otherwise prepared or preserved————	3.2¢ per lb. on drained weight + 10% 4/	5/	5/	5/	5/	5/	5/	5/	5/	10¢ per lb. on drained weight + 45%.

1/ The designation "A" indicates that the item is currently designated as an eligible article for duty-free treatment under the GSP and that all beneficiary developing countries are eligible for the GSP.

2/ Rate effective prior to Jan. 1, 1980.

3/ Prior to April 1, 1982, this item was included in TSUS item 144.12 (dried).

4/Duty temporarily increased; effective period for increased duties terminated at the close of Oct. 31, 1983. See Appendix to Tariff Schedules of the United States.

5/ There was no change in the col. 1 rate resulting from the Multilateral Trade Negotiations.

Table 2.--Prepared or preserved mushrooms: Harmonized System rates of duty, by HS commodity code number

(Cents per kilogram; percent ad valorem)

HS Commodity code number	Article description	Rates of duty	
		Col. 1 1/	Col. 2
0710	Vegetables (uncooked or cooked by steaming or boiling in water), frozen:		
0710.80	Other vegetables:		
0710.80.20	Mushrooms	7.1¢ + 10%	22¢ + 45%
0711	Vegetables provisionally prepared (for example by sulfur dioxide gas, in brine, in sulfur water or in other preservative solutions), but unsuitable in that state for immediate consumption:		
0711.90	Other vegetables; mixtures of vegetables:		
0711.90.40	Mushrooms	3/ 7.1¢ + 10%	3/ 22¢ + 45%
	Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared:		
0712.30	Mushrooms and truffles:		
0712.30.20	Mushrooms	2/ 2.9¢ + 4%	22¢ + 45%.
2003	Mushrooms and truffles, prepared or preserved otherwise than by vinegar or acetic acid:		
2003.10	Mushrooms	3/ 7.1¢ + 10%	3/ 22¢ + 45%

1/ Represents the "General" col. 1 rate.
2/ Reflects the final MTN concession rate.
3/ On drained weight.

Tariff treatment under the proposed Harmonized System.—The tariff treatment for the subject mushrooms under the proposed Harmonized System (HS) is shown in table 2, as set forth in the September 1984 draft converted schedule.

Structure of the domestic industry; production

During 1980–84, annual U.S. sales of prepared or preserved (canned and frozen) mushrooms averaged 117 million pounds; in 1984, sales were 119 million pounds (table 3). Sales of frozen mushrooms have accounted for an increasing share of total prepared or preserved mushroom sales; such sales amounted to 24 percent of the total in 1984. In recent years, the leading States in production/sales of canned mushrooms included Pennsylvania, Indiana and California, while Pennsylvania and Indiana led in frozen mushroom production/sales. No published data on the value of production are available, since prices vary according to container size and style of pack. In 1984, canned mushrooms were produced by 21 firms, compared with 23 firms in 1979; eight of the canners were located in Pennsylvania, with most of the other firms located in the Midwest and the Pacific Northwest. In 1984, 8 of the canners each sold more than 3 million pounds (drained weight) of domestically canned mushrooms, but no single firm accounted for more than one-fourth of U.S. sales of such mushrooms.

For the most part, domestic mushroom-canning operations are similar to the operations of small firms canning other products in the United States. However, unlike many small volume canners which operate during only a few weeks or months of the year, mushroom canners generally operate throughout most months of the year, with the principal canning season extending from October to the following May. Most mushroom canners process few other products.

TABLE 3.—PREPARED OR PRESERVED MUSHROOMS:[1] U.S. SALES, EXPORTS, IMPORTS, AND APPARENT CONSUMPTION, 1980–84

[Quantity in thousands of pounds; value in thousands of dollars; unit value per pound]

Year	Sales	Exports	Imports	Apparent consumption	Ratio (percent) of imports to consumption
			Quantity		
1980	121,644	578	117,303	238,369	49
1981	111,902	498	88,635	200,039	44
1982	115,592	257	101,447	216,782	47
1983	116,944	295	113,003	229,652	49
1984	118,825	634	169,053	287,244	59
			Value		
1980	2	392	121,909	3	3
1981	2	372	84,116	3	3
1982	2	233	92,426	3	3
1983	2	230	102,265	3	3
1984	2	453	165,726	3	3
			Unit value		
1980	2	$0.68	$1.04	3	3
1981	2	.75	.95	3	3
1982	2	.91	.91	3	3
1983	2	.78	.91	3	3
1984	2	.71	.98	3	3

[1] Includes data under TSUS items 144.20 and 922.56.
[2] Not available.
[3] Not meaningful.

Source: Sales, compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; exports and imports, compiled from official statistics of the U.S. Department of Commerce.

In recent years, about 24 percent of the domestic output of prepared or preserved mushrooms, except dried, was frozen. Fifteen firms produced frozen mushrooms in 1984; two of these firms also produced canned mushrooms. The freezers accounting for the bulk of domestic output are located in Pennsylvania and the Midwest.

Freeze-drying has been the only method used to dry mushrooms in the United States in recent years. It is believed that four firms, located in California, Oregon, Texas, and Pennsylvania, are reported to be the only U.S. producers of freeze-dried mushrooms and only on a limited basis.

U.S. imports

U.S. imports of prepared or preserved (including frozen and straw) mushrooms increased 44 percent from 117.3 million pounds (drained weight), valued at $121.9 million, in 1980 to a record high of 169.1 million, valued at $165.7 million, in 1984 (table 4). The sharp drop in imports from 1980 to 1981, along with continued low imports in 1982 and 1983, appears to reflect the additional duties imposed by the President in October 1980; however, a generally depressed market existed in 1981, as domestic producers' sales also decreased. The leading foreign suppliers of prepared or preserved mushrooms in 1984 (and the share supplied by each) were Taiwan (37 percent), China (27 percent), Hong Kong (13 percent), Spain (9 percent), and South Korea (7 percent). In 1984, the bulk of imported prepared or preserved mushrooms (including dried, frozen, straw, and otherwise prepared or preserved mushrooms) were canned mushrooms, as shown in the tabulation on page 15.

TABLE 4.—PREPARED OR PRESERVED MUSHROOMS:[1] U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 pounds, drained weight)				
Taiwan	59,108	24,614	38,659	42,829	62,120
China	14,830	27,444	36,634	36,681	45,259
Hong Kong	19,618	23,481	16,268	17,074	22,329
Spain	102	173	36	2,307	15,366
South Korea	19,406	9,426	5,180	8,175	11,647
Netherlands	0	3	1	738	5,076
France	204	155	109	568	1,759
Macao	1,988	2,298	3,332	3,307	1,883
All other	2,047	1,047	1,228	1,324	3,614
Total	117,303	88,635	101,447	113,003	169,053
	Value (1,000 dollars)				
Taiwan	65,105	28,376	42,074	46,207	69,933
China	13,508	23,000	28,547	29,121	38,144
Hong Kong	17,807	19,353	12,117	13,278	20,492
Spain	89	143	27	1,606	13,287
South Korea	20,668	9,191	5,021	7,636	11,540
Netherlands		7	3	563	4,565
France	513	343	373	613	1,882
Macao	1,762	2,005	2,492	2,550	1,632
All other	2,457	1,698	1,772	1,691	4,251
Total	121,909	84,116	92,426	103,265	165,726
	Unit value (per pound)				
Taiwan	$1.10	$1.15	$1.09	$1.08	$1.13
China	.91	.84	.78	.79	.84
Hong Kong	.91	.82	.74	.78	.92
Spain	.87	.83	.75	.70	.86
South Korea	1.06	.98	.97	.93	.99
Netherlands		2.69	2.78	.76	.90
France	2.51	2.22	3.41	1.08	1.07
Macao	.89	.87	.75	.77	.87
All other	1.20	1.62	1.44	1.28	1.18
Average	1.04	.95	.91	.91	.98

Source: Compiled from official statistics of the U.S. Department of Commerce.

Mushrooms

	1,000 pounds (drained weight)
Dried	[1] 13,834
Frozen	951
Straw	5,120
Canned	162,982

[1] Converted to drained weight equivalent.

Although air dried or sun dried mushrooms were supplied by a number of different GSP-eligible countries in 1984, the share of total imports supplied by each country was small. Chile, the only GSP-eligible country supplying more than 10 percent of air dried or sun dried imports, was the third largest supplier overall and accounted for 32 percent (by volume) of the total. Taiwan was the fifth leading foreign supplier, providing 3 percent of the total.

In 1984, Haiti and the Netherlands Antilles were the only Caribbean Basin Initiative countries supplying prepared or preserved mushrooms; neither country supplied more than 1 percent of total U.S. imports. Column 2 imports of prepared or preserved mushrooms during 1984 were negligible.

In recent years, over 100 firms imported prepared or preserved mushrooms, with 25 firms accounting for the bulk of such imports in 1984. The large-volume firms are located primarily on the east and west coasts near large urban centers. Most have been importing canned vegetables for many years, and canned mushrooms are only one of many different articles which they import. The names and addresses of the principal importers are not available.

U.S. exports

U.S. exports of prepared or preserved mushrooms rose irregularly from 578,000 pounds, valued at 392,000, in 1980 to 634,000 pounds, valued at $453,000, in 1984; exports averaged 452,000 pounds ($336,000) annually throughout the period (table 5). In 1984, the four major markets for canned mushrooms, accounting for the bulk of total exports, were Hong Kong, Saudi Arabia, Spain, and Canada. The names and addresses of exporters are not available.

TABLE 5.—PREPARED OR PRESERVED MUSHROOMS: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Hong Kong	70	136	25	90	240
Saudi Arabia	46	74	12	11	42
Spain	0	0	0	0	130
Canada	62	37	61	22	46
Netherlands	0	0	2	0	23
South Korea	0	0	1	0	18
Panama	6	4	5	0	16
Bahamas	17	42	3	5	11
All other	377	205	148	167	108
Total	578	498	257	295	634
	Value (1,000 dollars)				
Hong Kong	61	79	14	79	134
Saudi Arabia	40	53	14	13	86
Spain					73
Canada	43	40	70	21	39
Netherlands			2		21
South Korea			2		20
Panama	10	7	5		17
Bahamas	14	17	3	2	11
All other	224	176	123	115	52
Total	392	372	233	230	453

TABLE 5.—PREPARED OR PRESERVED MUSHROOMS: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84—Continued

Market	1980	1981	1982	1983	1984
	Unit value (per pound)				
Hong Kong	$0.86	$0.58	$0.55	$0.88	$0.56
Saudi Arabia	.88	.71	1.13	1.16	2.05
Spain					56
Canada	70	1.07	1.15	.97	.85
Netherlands			1.16		90
South Korea			2.42		1.11
Panama	1.54	1.92	1.16		1.07
Bahamas	.80	.40	1.24	.44	1.02
All other	.59	.86	.83	.69	.48
Average	.68	.75	.91	.78	.71

Source: Compiled from official statistics of the U.S. Department of Commerce.

Apparent U.S. consumption

During 1980–84, apparent U.S. consumption of prepared or preserved mushrooms trended upward and averaged 234 million pounds annually; in 1984, consumption amounted to 287 million pounds (table 3). Between 1980 and 1981, consumption declined by 16 percent, with imports alone declining 24 percent following the imposition of the increased duties on canned mushrooms (effective November 1, 1980, through October 31, 1983). Consumption then rose steadily through 1984, as imports gained a steadily rising share of consumption.

Effect on revenue

The enactment of this legislation would likely have little or no effect on the annual revenues collected on imports of prepared or preserved mushrooms, other than potential marking duties under section 304. Any increased cost of production in changing container labels to conform to this bill would be minimal, resulting in no increase in the dutiable value of the finished product or being paid by U.S. processors of imports.

Technical comments

Several technical difficulties are apparent in regard to the draft legislation. First, its scope is somewhat unclear. It would require the marking, in English, of containers of imported preserved mushrooms with the name of the country in which the mushrooms were grown, in order to convey country-of-origin information to the ultimate U.S. purchaser. However, it uses the term "preserved"—which is not used alone in the TSUS—without reference to any TSUS item number (or numbers), which could be confusing for Customs officers. TSUS item 144.20, "otherwise prepared or preserved" mushrooms, covers canned mushrooms and any mushrooms prepared or preserved other than by drying. Referring to this tariff item would specify the types of mushrooms intended to be covered. This could be achieved by inserting "prepared or" after "imported" in line 3, and inserting "classified in item 144.20 of the Tariff Schedules of the United States (19 U.S.C. 1202)" after "mushrooms" in the same line.

A second and more significant problem is that this legislation addresses only the marking of imported mushrooms which would be required at the time of entry. It would not eliminate the problem of the final U.S. consumer's lack of country-of-origin information for the growing volume of bulk imports intended for further processing and canning after entry, since the marking statute cannot be used to affect the post-entry transformation of imported articles. Thus, the purchaser of a retail-size can of mushrooms might still not be informed of their country of growth, since the bulk container might have been exempt from the marking requirement (or might even have been correctly marked).[6]

[6] Section 304(a)(3)(G) exempts from marking an article ". . . to be processed in the United States by the importer or for his account otherwise than for the purpose of concealing the origin of such article . . ." where the mark would be destroyed or concealed by the processing. Section

Continued

The third and related problem is that, as to imports of already-canned mushrooms, the legislation appears to be unnecessary in light of existing strict marking requirements of section 304 of the Tariff Act of 1930. However, if the intent of the legislation is to require that bulk containers for imports intended for U.S. canning must be marked, it would seem to be advisable to amend section 304(b) by inserting a proviso to this effect.

Finally, it may be observed that the intent of this legislation might be viewed as the creation of a trade barrier. It would also impose a burden on U.S. processors (assuming that it were amended to require U.S. processors to mark all production for sale to the retail consumer with the country of growth).

STATEMENT OF THE AMERICAN MUSHROOM INSTITUTE

The American Mushroom Institute and the nearly 200 growers it represents respectfully seek enactment of H.R. 839, which was introduced by U.S. Representative Richard T. Schulze of Pennsylvania.

As you know, H.R. 839 would amend the 1930 Tariff Act to require containers of imported processed mushrooms to have label identification of the country where the mushrooms were grown. This would amount to a minor, but significant, change in current law, which merely requires identification of the nation of last processing.

It is important to understand that H.R. 839 would neither impose protectionistic barriers against foreign trading partners, nor mandate excessive, unreasonable labeling standards.

The provisions of H.R. 839 are completely justified for ensuring the disclosure of pertinent information to America's consuming public. Indeed, without the information mandated by H.R. 839, unsuspecting American consumers would be misled into the potentially harmful belief that their canned mushrooms were grown under America's rigorous health and safety standards. Consumers have the right to know whether the mushrooms canned by American processors were also grown in accordance to American standards. Under current law, this vital information is withheld from the public. H.R. 839 would enable informed, intelligent consumer choices by removing the confusion and false impressions created by such deficient labeling.

Knowledge of a mushroom's origin of growth is no idle concern. Random inspections by the U.S. Customs Service have documented an alarming incidence of foreign matter present in imported processed mushrooms. Unfortunately, not every can of mushrooms which reaches our shores from overseas can be inspected.

Equally troubling is the reluctance of such nations as the People's Republic of China (PRC) to reveal their growing and processing practices. American experts have been kept in ignorance by the PRC, for example, on such critical health factors as the composition of that nation's mushroom-growing compost. A Pennsylvania State University professor recently was denied entry by the PRC except under the condition of being banned from all mushroom operations and information.

Unfortunately, H.R. 839 cannot guarantee that every foreign shipment of mushrooms is properly inspected for the benefit of American consumers. Nor can H.R. 839 ensure that foreign mushroom agricultural practices are as safe or healthful as their American counterparts. Perhaps those issues warrant the further scrutiny of this Congress. Until that time, however, the public deserves, at a minimum, to have the benefit of full disclosure regarding the processing and growth origins of the canned mushrooms on American merchants' shelves.

Finally, it is regrettable that H.R. 839 cannot reverse the PRC's predatory trade practices which have pushed America's mushroom industry to the brink of collapse. From little more than one-quarter million pounds exported to the U.S. in 1979 to over 43 million pounds which entered last year, the PRC has virtually displaced American-grown mushrooms from U.S. processing markets. And with the loss of those markets, our nation also lost many jobs and sunk deeper into a balance of trade deficit.

304(b) further exempts from marking rules the usual containers of such articles. The applicability of this combined exemption would depend upon the U.S. Customs Service interpretation of the intent of the importer, but pursuant to Customs regulations it is likely that it would be granted in most cases. The J-list of excepted articles, at 19 CFR sec. 134.33 includes "Natural products, such as vegetables, . . . in their natural state or not advanced in any manner further than is necessary for their safe transportation." Only the outermost container of such articles must be marked in any case other than the three 304(b) exceptions, one of which is that described above.

Until long-overdue trade reforms are established on a broad scale, however, at least H.R. 839 would alert sensitive consumers to canned mushrooms whose purchase would further harm the economic survival of American growers.

The American Mushroom Institute is convinced that enactment of H.R. 839 is necessary to protect the public welfare and would impose no unreasonable burden on responsible parties here or abroad. No legitimate interest would be served, moreover, by withholding the information which H.R. 839 seeks to disclose.

The American Mushroom Institute sincerely requests favorable action on H.R. 839 as expeditiously as possible.

H.R. 842

To reduce the rate of duty on certain polarizing material

U.S. International Trade Commission

Section-by-section analysis

Section 1 creates separate tariff items for polarizing materials (item 540.69) and other optical glass and synthetic optical crystals (item 540.68), eliminating the current provision for both articles (Tariff Schedules of the United States (TSUS) item 540.67). The rates of duty for item 540.68 will remain unchanged from the rates for item 540.67, including the MTN staged rate reductions. The rates of duty for item 540.69 will be reduced to 5.6 percent ad valorem for countries entitled to column 1 treatment,[1] and to Free for countries entitled to Least Developed Developing Countries (LDDC)[2] treatment. The column 2 rate of duty would remain unchanged.[3]

Section 2 provides that these amendments will become effective with respect to articles entered or withdrawn from warehouse on or after the 15th day after the bill is enacted.

Background and sponsor's justification

Description and uses.—Polarizing materials reflect certain light rays, inhibiting the passage of light except through one plane, and reducing or eliminating glare. Polarizing material, generally made from a type of plastic, can be manufactured by three methods. Small crystals which absorb linearly polarized light in one direction are embedded in a plastic material and are aligned parallel to one another by extrusion. Another production method is to place an iodine-in-water solution on an oriented sheet of plastic, wherein the iodine aligns itself with the plastics molecules. The third and most common method relies on the orientation of the plastics molecules themselves, as the molecules are aligned in the direction of stretch under temperature-controlled conditions.[4]

These polarizing materials, which are available in sheets or plates, are used in many applications, such as cathode ray tube (CRT) filters, liquid crystal displays (LCD's), optical elements for scientific instruments, glare shields, and 3-D glasses. The polarizing material is generally tailored for each application, with variations in the transmission level, thickness, and shape (whether linear or circular). Circular polarizing material is generally used for CRT filters, whereas linear polarizing material is used for LCD's.

These materials are considered to be relatively expensive components of LCD's and require a significant degree of technology to manufacture. Some polarizing materials imported for use in LCD's are believed to have a pressure-sensitive adhesive backing, but other imported materials do not have this backing.

Sponsor's justification.—The sponsor states that the purpose of this bill is to improve the competitive position of U.S. manufacturers of finished LCD's versus for-

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the LDDC rate of duty column.

[2] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[3] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[4] *McGraw-Hill Encyclopedia of Science and Technology*, 1977, Vol. 10, p. 520.

eign LCD producers.[5] Polarizing material, used to produce finished LCD's, is imported at a higher rate of duty than are the finished LCD's.[6]

Prior investigations

There have been no investigations concerning polarizing material by the Commission. There is currently before the U.S. Customs Service a classification protest (No. 28094-00898, dated June 29, 1984) for further action concerning imported polarizing materials that had been classified as laminated cellulose acetate sheet (TSUS item 771.20) [7] prior to recent laboratory testing for polarization.

Comparison with present law

Tariff treatment under the TSUS.—Polarizing material, in plates or sheets, not cut to shape or mounted for use as polarizing optical elements, is currently classified under TSUS item 540.67, which also includes other optical glass and synthetic optical crystals, but does not include synthetic optical crystals in the form of ingots, or lens blanks. This TSUS item is subject to duty-free treatment under the Generalized System of Preferences (GSP) [8] and the Caribbean Basin Economic Recovery Act (CBERA).[9] Table 1 provides current and negotiated rates of duty for item 540.67.

Tariff treatment under the proposed Harmonized System (HS).—Polarizing meterial will be classified under proposed HS commodity code 9001.20.0000, sheets and plates of polarizing material.[10] The column 1 (General) rate of duty will be 8.4 percent ad valorem.[11]

Structure of the domestic industry

There are three known manufacturers of polarizing material[12] in the United States, Polaroid (Cambridge, MA), American Hoechst (Camarillo, CA),[13] and Foster-Grant Co., (Leominster, MA). These three companies are believed to account for nearly all U.S. production of polarizing material. Polarizing material is believed to account for a significant share of Polaroid's production, which also includes photographic equipment and supplies, and optical goods. Polarizing material was recently introduced into American Hoechst's line of products. American Hoechst, a wholly-owned subsidiary of Hoechst AG (West Germany), principally manufactures fibers, pharmaceuticals, chemicals, dyes and pigments, resins, and plastic packaging.

---

[5] *Congressional Record* (January 30, 1985) pg. E-2740.

[6] The sponsor states that the rate of duty on finished LCD's is 5.6 percent ad valorem; the U.S. Customs Service has advised Commission staff that they believe the correct rate is 3 percent ad valorem (item 685.70).

[7] The current rate of duty for item 771.0 is 3 percent ad valorem.

[8] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[9] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[10] The Harmonized System is intended to serve as a single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. These provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters, and sections, form the legal text of the system. This section describes the nomenclature structure, and the rates of duty scheduled to be in effect on January 1, 1987, if the United States adopts the proposed HS as the basis for the U.S. tariff schedules.

[11] Source: USTR, Trade Policy Staff Committee, *Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System, Revised, Showing Administrative Changes Approved by the Trade Policy Staff Committee, (September 1984)* pg. 90-3.

[12] Domestic manufacturers are believed to produce both circular and linear polarizing materials; however, the staff is aware of statements by both importers and domestic LCD manufacturers that domestically-manufactured linear polarizing materials are not suitable for use in finished LCD's.

[13] In a conversation with Commission staff on May 1, 1985, a representative of American Hoechst stated that they both manufacture, and sell to U.S. LCD producers, polarizing materials suitable for use in finished LCD's.

Foster-Grant principally manufactures polarizing material for use in sunglasses and miscellaneous plastic products.

Manufacturers of finished LCD's have indicated that the polarizing material produced by these three firms is not suitable for use in finished LCD's.[14], [15] Finished LCD's require specialized, highly durable polarizing material. The material produced in the United States is reportedly more suitable for use in CRT filters, glare shields, sunglasses, and optical elements for scientific instruments.

Domestic production

Due to the confidential nature of U.S. producers' shipments and the unavailability of data through other government sources, domestic production data cannot be provided.

U.S. imports

Specific import data for polarizing material are unavailable due to its inclusion with other products in a "basket" category. Total imports under TSUS item 540.67 during 1980.84 are as follows:

Year	Quantity (pounds)	Value (1,000 dollars)
1980	584,121	4,040
1981	513,167	4,478
1982	298,986	3,971
1983	338,786	4,374
1984	452,351	9,002

These figures represent maximum amounts of polarizing material imports for each year, as imports of this material are believed to be small.[16] Imports of this product, however, may have been classified under other TSUS items, as indicated earlier, and are not included in these import figures.

As a result of the classification protest filed with Customs, one importer of polarizing material has been identified. This company is Dana Enterprises International, located in San Jose, CA. Due to the large number of importers reported under this TSUS item, and the previous classification of this product, information on other importers of polarizing material and their locations is unavailable.

The following tabulation shows the principal supplying countries of imports under item 540.67 in 1984:

Country	Quantity (pounds)	Value (1,000 dollars)
West Germany	178,435	3,006
Japan	141,201	2,849
United Kingdom	108,797	288

Column 2 imports under item 540.67 totaled 6,064 pounds, valued at $38,034, in 1984. Imports under GSP were negligible, and no imports were reported under the CBERA.

U.S. exports

Specific export data for polarizing material are unavailable due to its inclusion with other products in a "basket" category. Total exports during 1980–84 of schedule B number 540.6600, which includes polarizing material, are as follows:

Year:	*Value (1,000 dollars)*
1980	8,427

[14] Two LCD manufacturers responded to staff inquiries: Crystaloid Electronics, Hudson, Ohio; and Hamlin Co., Falls Creek, Wisc.

[15] One domestic manufacturer stated that they did not produce polarizing material having a pressure-sensitive adhesive backing of a kind suitable for use in finished LCD's.

[16] For example, the TSUS–HS conversion report estimates that approximately 10 percent of item 540.67 is attributable to polarizing material, based on analysis of 1982 import data.

	Value
1981	13,829
1982	9,882
1983	6,721
1984	4,101

Exports of polarizing material are believed to be negligible during this period.

Apparent U.S. consumption

Data for apparent U.S. consumption during 1980–84 are unavailable due to the lack of U.S. producers' shipments data.

Effect on revenue

Due to the inclusion of polarizing material with other products in TSUS item 540.67, specific revenue loss attributable to the proposed duty reduction is unavailable. Calculated duty for item 540.67 amounted to nearly $1.1 million in 1984. Revenue which would have been collected under the proposed duty rate when applied to all products entered under item 540.67 would have totaled $392,611 in 1984, representing an estimated maximum revenue loss of $667,130. TSUS item 540.67 is subject to MTN staged reductions, as the rate is declining annually to 10 percent ad valorem in 1987. As polarizing material is believed to account for a relatively small share of the imports under this item, revenue loss should be minimal.

Technical comments

The stated purpose of this legislation is to reduce the rate of duty on "certain" polarizing material, (i.e. that material used for LCD's). As the bill is currently drafted, however, *all* polarizing material for *all* end uses is included in the duty reduction. If the intent is to extend this duty reduction *only* to polarizing material. Although Customs can determine relatively easily by laboratory testing whether or not a plastic material is polarized, determining the actual end use of the product could be more difficult. Classification of these products into two different tariff classes distinguished only by end use would rely heavily on a complete and proper invoice description.

There is an apparent error on line 1, page 2: "stage rate reductions" should read: "staged rate reductions".

Table 1.--Other optical glass and synthetic optical crystals; polarizing material: U.S. rates of duty, by TSUS item

(Percent ad valorem)

TSUS item No.	Article description (abridged)	Pre-MTN col. 1 rate of duty 1/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—			
			1980	1981	1982	1983
	Optical glass in any form; non-optical glass blanks; synthetic optical crystals; polarizing material, in plates or sheets, not cut to shape or mounted for use as polarizing optical elements:					
540.67	Other optical glass and synthetic optical crystals; polarizing material.	25%	23.1%	21.3%	19.4%	17.5%

TSUS item No.	Article description (abridged)	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—Continued				Col. 2 rate of duty
		1984	1985	1986	1987	
	Optical glass in any form; non-optical-glass blanks; synthetic optical crystals; polarizing material, in plates or sheets, not cut to shape or mounted for use as polarizing optical elements:					
540.67	Other optical glass and synthetic optical crystals; polarizing material.	15.6%	13.8%	11.9%	10%	50%.

1/ Rate effective prior to Jan. 1, 1980.

U.S. DEPARTMENT OF COMMERCE,
Washington, DC, June 21, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in response to your request for the views of this Department on H.R. 842, a bill "To reduce the rate of duty on certain polarizing material."

The Department opposes enactment of H.R. 842.

Certain polarizing materials currently enter the United States under TSUS item 540.67, which is described as "Other optical glass and synthetic optical crystals; polarizing materials." H.R. 842 would eliminate Tariff Schedules of the United States (TSUS) item 540.67 and create two new items: 540.68 ("Other optical glass and synthetic optical crystals") and 540.69 ("Polarizing materials").

The column 1 (MFN) tariff rate on the proposed TSUS 540.69 (polarizing materials) would be 5.6 percent *ad valorem*. The rate on other optical glass and synthetic optical crystals would be set at 15.6 percent *ad valorem*. However, the current MFN duty on TSUS 540.67 is 13.8 percent *ad valorem*, as a result of concessions made in the Tokyo Round of trade negotiations. The MFN duty will be further reduced in stages to 10.0 percent *ad valorem* by January 1, 1987. No provision is made in H.R. 842 for these staged reductions. H.R. 842 would have no effect on the column 2 (statutory) rate of 50 percent *ad valorem*.

TSUS 540.67 is eligible for duty-free treatment under the U.S. Generalized System of Preferences.

We oppose unilateral tariff reductions that might adversely affect domestic manufacturers without providing offsetting benefits to the United States. There are two U.S. producers of polarizing materials and we find no evidence of any shortage of these goods on the domestic market. We believe that tariff reductions on these products should be made only in the context of mutual trade reductions by our trading partners.

We are unable to calculate revenue loss from enactment of H.R. 842 since polarizing materials are only a portion of the basket category TSUS 540.67. Enactment of this legislation would have no effect on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to Congress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS,
General Counsel.

AMERICAN HOECHST CORP.,
FILM DIVISION,
Camarillo, CA, June 12, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
U.S. House of Representatives, Washington, DC.

DEAR MR. DOWLEY: Enclosed please find a copy of Bill H.R. 842 regarding the reduction in the rate of duty on certain polarizing material.

As an American manufacturer of polarizing materials, we would be strongly opposed to the above mentioned legislation.

We have been supplying polarizing materials to the domestic as well as the foreign market for over 15 years. Competing in the marketplace, particularly in light of the strong U.S. dollar, is difficult enough. We don't need more restraints.

A reduction in the rate of duty of polarizing materials would unquestionably allow foreign imports the ability to attain a large share of the market.

It is our opinion that this bill would have no advantage to the general American public. It would only benefit those companies which process polarizing material.

Once again, American Hoechst Corporation strongly opposes passage of H.R. 842.

Sincerely yours,

DALE STOEBER,
Finance and Administration Manager.

HAMLIN, INC,
Lake Mills, WI, April 23, 1985.

Hon. SAM GIBBONS,
Trade Subcommittee,
U.S. House of Representatives, Washington, DC.

DEAR MR. GIBBONS: Rep. John Seiberling has informed me that H.R. 842 (regarding reduction of tariff on polarizing material) has been referred to your subcommittee for consideration.

I am hopeful that the duty on the polarizing material can be reduced from 15.6% to its previous level of 3.2%. This material is one of the major components used in the manufacture of our liquid crystal displays. Our profit is marginal, and without the lower tariff, we will be forced out of the market place by the Japanese, who can enter their *finished* liquid crystal display products at a lower duty rate.

Sincerely,

RONALD T. FERGUSON,
President.

STATEMENT OF DR. STEWART BENNETT, GENERAL MANAGER, POLARIZER DIVISION OF POLAROID CORP.

I am submitting this statement to the Subcommittee on Trade of the House Ways and Means Committee in reponse to its request for comments on a number of miscellaneous tariff bills, among them H.R. 842.

Polaroid Corporation (Polaroid) opposes H.R. 842, a bill introduced by Congressman John F. Seiberling (D-Ohio) and Norman Mineta (D-California), which, if passed, would unilaterally reduce the import duty rate on polarizing materials by nearly 60 percent, from 13.8 percent *ad valorem* to 5.6 percent *ad valorem*. The current duty rate of 13.8 percent *ad valorem* resulted from the Tokyo Round of Multilateral Trade Negotiations during which the U.S. agreed to reduce the duty on TSUS Item number 540.67 from the 1981 duty rate of 21.3 percent *ad valorem*.

More specifically, H.R. 842 would break down current Tariff Schedule of the United States (TSUS) Item number 540.67 into two new subcategories: (1) TSUS Item number 540.68, "other optical glass and synthetic optical crystals," the imports of which would be dutiable at the *increased* rate of 15.6 percent *ad valorem;* and (2) TSUS Item number 540.69, "polarizing materials," the imports of which would be dutiable at the *decreased* rate of 5.6 percent *ad valorem*. As a result, if H.R. 842 were to become law, *all* polarizing material imports would be dutiable at 5.6 percent *ad valorem*.

Polaroid invented synthetic polarizing materials, which can generally be described as optical elements which reduce glare. The company has been the principal U.S. manufacturer of these products since the 1930's and produces them in a great variety of thicknesses, optical densities, wavelength characteristics and sizes. Applications for these products include sunglasses, commerical aircraft windows, video display tube filters and flash-blindness goggles for the Strategic Air Command.

Polaroid employs 130 workers who derive their livelihoods from the U.S. manufacture and marketing of polarizing materials. Annual Polariod sales of these products are approximately $25 to $30 million. All production of polarizing materials takes place at Polaroid's plant in Norwood, Massachusetts.

Polarizing materials of the type produced by Polaroid are also manufactured in Japan, Taiwan and Europe. Because TSUS Item number 540.67 is a "basket category" which captures both polarizing and optical glass materials, it is impossible to identify the level of polarizing materials that are imported into the U.S. It is noted, however, that imports entering under TSUS 540.67 increased 108 percent by value from 1983 to 1984. Japanese suppliers principally accounted for this substantial increase.

It is clear that foreign producers, particularly those in Japan, such as Sanitsu, have the capacity to substantially increase exports to the U.S. of polarizing materials that would compete with U.S. manufacturers such as Polaroid. A reduction of the duty to 5.6 percent *ad valorem* would offer foreign manufacturers an attractive incentive to substantially increase their exports to the U.S. at the expense of U.S. jobs and the domestic industry.

Polariod is a strong advocate for free and unfettered international trade. However, in view of this country's ongoing efforts to assist U.S. exporters to gain better access to markets abroad, particularly in Japan, it seems inadvisable from a trade policy point of view for the Congress to unilaterally reduce duty rates without ob-

taining concessions in return, especially on products such as polarizing materials where Japan appears to be the principal supplying country.

In sum, Polaroid is concerend that, if passed, H.R. 842 will substantially jeopardize the economic feasibility of continued production of polarizaing materials in the U.S. at current levels. In addition, we question whether this bill is wise from a strategic trade policy point of view.

For these reasons, Polaroid respectfully urges the House Ways and Means Committee to oppose favorably reporting H.R. 842 to the full House as part of any miscellaneous tariff bill.

H.R. 976

To provide for the preservation of the ferroalloy industry in the United States

U.S. International Trade Commission

Section-by-section analysis

Section 1 of the proposed bill states that this Act is to be cited as the "Fair Trade in Ferroalloys Act." Section 2 states that ferroalloys are essential in the production of iron, steel, and aluminum, and that national defense requires a secure supply assured through the maintenance of domestic capacity to produce these alloys. Further, section 2 states that the industry has, for many years, suffered from pressure from imports which enjoy the artificial advantages afforded by non-free-market pricing policies, by subsidies, and by other policies of foreign governments, and that existing U.S. trade laws have not prevented imports from causing the decline of the ferroally industry. The stated purpose of this legislation is to establish fair price tariffs that would neutralize the artificial advantages which foreign ferroalloy producers currently enjoy by simultaneously eliminating all tariffs other than the fair price tariffs proposed herein. Under Section 3 of the bill, column 1,[1] column 2,[2] and LDDC [3] duties would be eliminated on TSUS items 606.22 through 606.30, 606.35 through 606.44, 606.50, 632.18, 632.30, 632.42, and 632.86. In place of the duties "fair price differentials" would be established.

The "fair price differentials," to be defined in a new headnote to part 2 of schedule 6 of the TSUS, would equal the excesses, if any, of the fair prices of such articles over the declared c.i.f. values at U.S. ports of entry. "Fair price" is defined in the bill as the amount determined by the Secretary of Commerce to be average cost incurred by producers in producing such an article in the United States at technologically efficient facilities, plus an amount for general expenses and profit. The amount for general expenses and profit would be prescribed by the Secretary of Commerce and could not be less than the amount determined with respect to the article in connection with the imposition of antidumping or countervailing duties under section 773(e)(1)(B) of the Tariff Act of 1930 (19 U.S.C. 1677b(e)(1)(B)). The fair price would be determined by December 31 of each year and would be applicable during the succeeding calendar year. The fair price differentials would apply to all specified import items whether from a country designated as a beneficiary developing country under the GSP or from any other country. Section 4 provides for an effective date of the earlier of December 31, 1985 or the date which is 90 days after the date of enactment of the Act.

Background and justification

Description and uses.—Ferroalloys are alloys of iron and one or more other elements. In commercial applications each of these other elements can vary from less than 1 percent to over 90 percent of the weight of the alloy. Ferroalloys are used principally as additives in ironmaking and steelmaking. The products which are

---

[1] The rates of duty in rate of duty column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Initiative (CBI), or under the Least Developed Developing Countries (LDDC) rate of duty column.

[2] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[3] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column 1 applies.

subject to the proposed legislation include ferrochromium, ferromanganese, ferrosilicon, ferrovanadium and unwrought base metals of chromium, manganese and silicon. All of the products covered by this bill, except ferrovanadium, are produced in electric furnaces. Ferrovanadium is produced by the metallothermic process (chemical reaction).

The bill covers three types of ferrochromium (defined as an alloy of iron and chromium containing 50 to 72 percent chromium in commercial grades): high-carbon ferrochromium (in 1983 it accounted for over 85 percent of U.S. consumption); low-carbon ferrochromium; and ferrosilicon chromium. The bulk of the chromium-containing ferroalloys are used in the manufacture of stainless steel, specialty steels, superalloys, and high-temperature alloys. In stainless steel chromium enhances hardenability, creep and impact strength, and resistance to corrosion, oxidation, wear, and galling. In alloy steels, cast iron, superalloys, and other nonferrous alloys chromium enhances high-temperature strength and imparts special properties such as resistance to heat, abrasion, and oxidation, and electrical resistance. Domestic and imported products are manufactured by essentially the same electric-furnace process. The principal raw material supply for ferrochromium products is imported chromium ore. This is due to the fact that domestic sources are limited to small, low-grade chromium ore deposits. In 1984 approximately 80 percent of the ferrochromium used in the United States was used in stainless and heat-resisting steel, 10 percent in full alloy and tool steel, and the remainder in other iron and steel products.

The bill also covers four types of ferromanganese products (generally containing between 78 and 84 percent by weight of manganese in commercial grades): high-carbon ferromanganese (in 1983 it accounted for 69 percent of U.S. consumption); medium-carbon ferromanganese; low-carbon ferromanganese; and ferrosilicon manganese (containing approximately 62 percent manganese and 30 percent silicon). Manganese alloys are also used in carbon and full alloy steel production to impart strength, toughness, and hardness. There is no commercially economic substitute for manganese in steelmaking. The principal raw material supply for ferromanganese products is imported manganese ore since domestic ores are of low grade, containing less than 35 percent manganese. In 1984 approximately 94 percent of ferromanganese and ferrosilicon manganese was used in steel, the remainder in superalloys, alloys, other metals, and in cast iron.

The five types of ferrosilicon products covered in the bill are principally differentiated by their silicon content. In recent years approximately 62 percent of the ferrosilicon products consumed in the United States contained 48 percent silicon. The remainder of the products consumed were of either 76 percent or 18 percent silicon content. In recent years more than half of the ferrosilicon produced has been used by the steel industry as a deoxidizing agent or as a strengthening alloy in the manufacture of various iron and steel products. There are no substitutes for ferrosilicon as an alloying agent, but alumium is a suitable as a deoxidizing agent. In 1984, 75 percent of U.S. consumption was supplied by the domestic industry, manufactured from abundantly available raw materials. In 1984 over 54 percent of the ferrosilicon consumed was used in steel production as a deoxidizing agent, 44 percent was used in cast iron production as a deoxidizer and to enhance casting capability, and the remainder was used by in alloys, super alloys, and miscellaneous metal production.

Ferrovanadium usually contains from 40 to 86 percent vanadium, and is generally made by reducing vanadium pentoxide and iron in a metallothermic process (chemical reaction) or in an electric furnace with silicon, ferrosilicon or carbon. The supply of vanadium is relatively abundant as it appears as a trace element in many types of rocks and ores. It also occurs in crude oils and tar sands. Vanadium is principally used as an alloying agent for iron and steel. It is also important in the production of titanium alloys, and as a catalyst for production of sulfuric acid.

Unwrought base metals of chromium, manganese, and silicon contain between 96 and 99 percent of the respective base metal. The production processes used in manufacturing these products include electrolysis (chromium and manganese); the metallothermic process (chromium); and the electric-arc furnace process (silicon). The principal raw materials necessary for the manufacture of these base metals are the respective ores in a raw, beneficiated or semi-processed form. Base metals have the following principal uses: as additives in iron and steelmaking (chromium manganese and silicon); as additives in aluminum production (manganese); as additives in silicon production; and to produce ultra-high-purity silicon metal for semiconductor devices (silicon).

Justification.—The sponsors of the bill, supported by the Ferroalloys Association, cite three major problems the legislation is intended to remedy: high penetration of

the domestic market by low-priced imports; inability of the current trade laws to protect the industry; and the further deterioration of the domestic industry.

The U.S. ferroalloy industry claims that it is one of the most efficient, modern and technologically innovative in the world, yet in recent years domestic ferroalloys were consistently undersold up to 18–20 percent in delivered prices. The result has been a gradually increasing import penetration of domestic ferroalloy consumption, from 15 percent in 1970 to 60 percent in 1984. Ferroalloys are imported from 35 countries, including Soviet-block countries. The industry's pursuit of trade relief under escape clause, antidumping, and national security provisions has not reversed the loss of market share to imports.

Highlights of economic activity noted by the ferroalloy industry during 1978–84 are shown in the following tabulation:

Item	1978	1984	Percent change
Production (short tons)	1,520,000	829,000	−46
Production capacity	2,406,000	1,166,000	−52
Employment (production and related workers)	8,500	3,870	−54
Number of companies	21	16	−24
Number of plants	37	24	−35
Electric arc furnaces	96	40	−58

Industry sources contend that if imports entering the United States with a declared c.i.f. value below the product's "fair price" are required to pay a duty equal to the difference, the resulting price will enable the domestic industry to retain present capacity and insure national security.

Prior investigations

The following investigations have been conducted by the Commission and other agencies concerning the ferroalloy commodities covered by this bill:

The Commission made a negative injury determination in a 1977 investigation (investigation No. TA–201–20 (USITC Pub. No. 825)) on low-carbon ferrochromium. It found that a change in the stainless steel refining process to a process utilizing cheaper high-carbon ferrochromium was a more important cause of serious injury than increased imports.

Following receipt of a petition filed on December 11, 1978 by domestic producers, the U.S. Department of the Treasury undertook an investigation into alleged subsidization of the Spanish ferroalloys industry. In December 1979 an affirmative determination was announced (45 F.R. 25, Jan. 2, 1980), and countervailing duties were assessed on high-carbon ferrochromium (TSUS item 606.24), ferromanganese (TSUS items 606.28–30), ferrosilicon manganese (TSUS item 606.44), and ferrosilicon (TSUS item 606.36). In 1984 the CVD order was withdrawn following withdrawal of the petition by the industry.

In December 1977 the Commission made an affirmative determination in investigation No. TA–201–28 (USITC Pub. No. 845) on high-carbon ferrochromium. A higher import duty for 5 years was recommended to the President as a remedy. The President decided that such relief was not in the national economic interest. In 1978 the Commission conducted a second investigation (No. TA–201–35 (USITC Pub. No. 911)) following receipt of a request from producers and receipt of a resolution from the Ways and Means Committee requesting the investigation. The Commission made an affirmative decision, again recommending higher import duties for 5 years as a remedy. The President subsequently granted relief in the form of increased duties for a period of 3 years (Presidential Proclamation No. 4608, Nov. 15, 1978). In a 1981 section 203 review (investigation No. TA–203–8 (USITC Pub. No. 1185)) the Commission recommended that relief be extended for a period of 3 years. The President subsequently announced a 1-year extension, to November 15, 1982.

In 1980 the Commission conducted a countervailing duty investigation (No. 701–TA–10) on ferrosilicon and certain nonferrosilicon ferroalloy products from Brazil. The investigation was terminated by the Commission, without a determination, after the petition was withdrawn by the domestic industry in March 1980.

In August 1981, at the request of the Ferroalloys Association, the U.S. Department of Commerce initiated an investigation under section 232 of the Trade Expansion Act of 1962 to determine the impact of ferroalloy imports on national security. The final report, which was confidential, was forwarded to the President in August 1982. Although the results of this investigation were not announced, the President,

in December 1982, acted to increase U.S. stockpiles of ferromanganese and ferrochromium, two of the three basic ferroalloys covered in the investigation. No action was taken on ferrosilicon.

On March 31, 1983, following a request by the Ferroalloys Association, the United States Trade Representative removed Brazilian ferrosilicon (TSUS items 606.36–37) and ferrosilicon manganese (TSUS item 606.44) from the list of articles eligible for special duty-free status under the Generalized System of Preferences (GSP). At the same time, GSP status for imports of high-carbon ferromanganese (TSUS item 606.30) from all sources was removed.

In 1984 the Commission made a negative determination in investigation No. TA-406-10 (USITC Pub. No. 1484) on ferrosilicon from the U.S.S.R. It determined that such imports were increasing rapidly and that domestic ferrosilicon producers were suffering material injury, but that such imports were not a significant cause of material injury or threat thereof.

A January 25, 1984 memorandum from the Under Secretary of Defense directed all services and their contractors and subcontractors to purchase high-carbon ferrochromium (HCF) from U.S. sources only. There was no expiration date on the directive. DOD sources estimate annual HCF peace-time requirements at 15,000-30,000 tons.

Comparison with present law

Tariff treatment under the TSUS.—The column 1, LDDC, and column 2 duty rates currently in effect for the products covered by this legislation are shown in Appendix A. Imports under items 606.26, 606.28, 606.36, 606.37, 606.44, 632.18, and 632.42, from designated beneficiary developing countries, are eligible for duty-free entry under the Generalized System of Preferences (GSP).[4] Imports from designated Caribbean countries are eligible for duty-free treatment under the Caribbean Basin initiative (CBI).[5]

The staged rates of duty that were negotiated in the Tokyo Round of Multilateral Trade Negotiations for each of the TSUS items covered by this legislation appear in Appendix B.[6]

Tariff treatment under the proposed Harmonized System (HS).—The HS commodity code number, the product description, and the rate of duty to be effective upon implementation of the HS for each of the products covered by this legislation are shown in Appendix C.

Structure of the domestic industry

The domestic industry for the subject products consists of the producers listed in Table 1. Elkem Metals Co. is a subsidiary of Elkem of Norway, the largest ferroalloy producer in the world. A few years ago Elkem bought the Union Carbide plant in Marietta, OH. Some of the production processes still make use of Union Carbide patents. The plant also uses South African feedstock.[7] Shieldalloy is a division of Metalurg, Inc., which has operations in Sweden, Germany and the United Kingdom. SKW, Inc. is a German-owned ferroalloy producer.

---

[4] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[5] The CBI affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBI, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[6] Staged rate reductions were not negotiated for items 606.20, 606.24, 606.35, 606.42, 632.30, and 632.86.

[7] Union Carbide's ferroalloy operations are now located in South Africa.

TABLE 1.—U.S. PRODUCERS OF FERROALLOY PRODUCTS

Name and location of producers	Ferroalloys				Metals		
	Ferrochromium [1]	Ferromanganese [1]	Ferrosilicon	Ferrovanadium [1]	Chromium [1]	Manganese [1]	Silicon [1]
Globe Metallurgical, Inc.:							
Selma, AL							
Beverly, OH	X	X	X [2]				X
Macalloy, Inc.: Charleston, S.C.	X						
SKW Alloys, Inc.:							
Calvert City, KY	X	X	X [2]				
Niagara Falls, NY	X		X [2]				
Shieldalloy, Corp.: Newfield, NJ				X	X		
Elkem Metals Co.:							
Alloy, WV			X [2]				X
Marietta, OH		X		X	X	X	
Ashtabula, OH			X [2]				
Chemetals: Kingswood, WV		X					
Kerr-McGee Chemical Corp.: Hamilton, MS						X	
Aluminum Co. of America: [3] [4] Addy, WA			X				
Hanna Mining Co.:							
Wenatchee, WV							X
Riddle, OR			X				
TAC Alloys Div. of International Minerals and Chemical Corp.:							
Bridgeport, AL			X [2]				
Kimball, TN			X [2]				
Foote Mineral Co.:							
Cambridge, OH				X			
Graham, WV			X [2]				
Keokuk, TN			X [2]				
Ohio Ferroalloy Corp.: Montgomery, AL							X
Reynold Metals Co.: [3] [4] Sheffield, AL							X
Dow Corning, Corp.: [3] [4] Springfield, OR							X
Reading Alloys: [4] Robesonia, PA				X			
Affiliated Metals and Minerals: [4] New Castle, PA				X			

[1] The plants shown account for 100 percent of U.S. production.
[2] Account for over 80 percent of U.S. production.
[3] Produced almost entirely for in-house consumption.
[4] Not members of the Ferroalloys Association.

The 1984 employment of production and related workers was estimated by the Ferroalloy Association to be as follows:

Product group:	*Employment*
Ferrochromium	290
Ferromanganese	230
Ferrosilicon	2,010
Ferrovanadium	100
Chromium metal	40
Maganese metal	150
Silicon metal	1,050
Total	3,870

Domestic production

Table 2 shows U.S production of the ferroalloy products covered by this legislation. Production of ferroalloys and unwrought base metals declined 51 percent to 702,100 tons in 1983 ($470.7 million) from 1,421,100 tons ($975.6 million) in 1980. This decline was largely due to decreased demand for iron and steel and the attraction of imports, which were cheaper to purchase with the strong dollar. In 1984 production increased more than 33 percent to 935,800 tons ($652.3 million) over the 1983 level as demand increased for iron and steel and aluminum production, and conversion of U.S. government chromium ore stockpiles into ferrochromium was undertaken.

TABLE 2.—U.S. PRODUCTION OF FERROALLOY COMMODITIES

Source	1980	1981	1982	1983	1984
	(1,000 short tons of alloy or metal weight)				
Ferrochromium	238.6	227.3	119.3	36.4	132.0
Ferromanganese	377.0	366.0	188.0	149.0	[2] 130.0
Ferrosilicon	645.4	631.1	358.8	370.1	510.0
Other [1, 2]	160.1	156.2	101.7	147.6	163.8
Total [2]	1,421.1	1,380.6	767.8	702.1	935.8
	Value (in millions of dollars)				
Ferrochromium	180.9	176.2	83.6	36.5	108.2
Ferromanganese	180.2	188.5	109.8	65.0	58.8
Ferrosilicon	325.1	279.6	159.7	155.8	218.8
Other [1, 2]	289.4	295.4	170.2	213.4	266.5
Total [2]	975.6	939.7	523.3	470.7	652.3

[1] Includes ferrovanadium, chromium, manganese and silicon metal.
[2] Estimated by the staff of the U.S. International Trade Commission.

Source: U.S. Bureau of Mines.

U.S. imports

Table 3 shows U.S. imports of the subject ferroalloy commodities. Imports of ferroalloys and metals covered by the bill fluctuated in line with domestic demand during 1980–1984, increasing from 1,060,300 tons ($481.9 million) in 1980 to 1,433,800 tons ($654.2 million) in 1981 and then decreasing to 1,134,600 tons ($499.2 million) in 1984. The names and locations of the principal importers of the subject commodities are not available because of the confidentiality of the Net Import File located at U.S. Customs. In 1984 the principal supplying countries of the ferroalloy commodities covered by the bill (except ferrovanadium) were South Africa (35 percent), Brazil (9 percent),[8] France (11 percent), Norway (7 percent), and Zimbabwe (5 percent).[9] Ferrovanadium was imported principally from Canada, West Germany and France.

[8] Brazil is an eligible beneficiary developing country for the GSP with respect to imports under items 606.26, 606.28, 606.33, 632.18, and 632.42.
[9] Zimbabwe is an eligible beneficiary developing country for the GSP with respect to imports under items 606.26, 606.28, 606.33, 606.36, 606.37, 606.44, 632.18, and 632.42.

TABLE 3.—U.S. IMPORTS OF FERROALLOY COMMODITIES

Sources	1980	1981	1982	1983	1984
	(1,000 short tons of alloy or metal weight)				
Ferrochromium	275.6	435.2	148.3	281.7	428.4
Ferromanganese	680.7	800.0	549.5	481.3	545.9
Ferrosilicon	70.0	157.3	77.8	159.4	114.0
Ferrovanadium	.3	1.0	0.7	0.7	1.2
Manganese metal	4.1	3.5	1.9	3.1	4.7
Chromium metal	7.5	8.3	5.2	5.3	13.3
Silicon metal	21.2	28.5	25.4	27.0	27.1
Total	1,060.3	1,433.8	808.8	958.5	1,134.6
	(In millions of dollars)				
Ferrochromium	146.7	219.2	80.8	109.7	187.2
Ferromanganese	240.7	276.6	172.7	133.2	162.1
Ferrosilicon	42.5	81.1	40.3	67.4	74.2
Ferrovanadium	3.5	13.3	8.1	6.3	11.9
Manganese metal	18.4	24.6	10.1	13.7	24.1
Chromium metal	7.6	8.4	5.2	5.0	13.0
Silicon metal	22.5	31.0	26.8	26.0	26.6
Total	481.9	654.2	344.0	361.3	499.2

Source: Compiled from official statistics of the U.S. Department of Commerce.

In 1984 imports from column 2 countries amounted to approximately 3 percent (by quantity) of all imports of products covered by this legislation. The countries involved (in descending order by quantity imported) were the U.S.S.R., Romania, Poland, and the People's Republic of China.

U.S. exports

Table 4 shows U.S. exports of the subject ferroalloy commodities. Exports of ferroalloys fluctuated during the period 1980–1984, decreasing from 108,300 tons ($139.7 million) in 1980 to 66,200 tons ($141.4 million) in 1984. Industry sources indicate that the primary exporters are the larger U.S. producers (see Table 1).

TABLE 4.—U.S. EXPORTS OF FERROALLOY COMMODITIES

Source	1980	1981	1982	1983	1984
	(1,000 short tons of alloy or metal weight)				
Ferrochromium	31.7	14.1	4.9	4.2	15.4
Ferromanganese	18.2	16.8	13.4	14.9	12.1
Ferrosilicon	27.5	15.8	14.6	13.6	29.4
Ferrovanadium	.8	.4	.3	.8	.5
Chromium metal	3.4	.4	.2	.2	.3
Manganese metal	12.3	4.7	3.6	3.4	4.1
Silicon metal	14.4	8.7	2.4	2.8	4.4
Total	108.3	60.9	39.4	39.9	66.2
	Value (in millions of dollars)				
Ferrochromium	22.2	10.4	5.1	4.8	10.5
Ferromanganese	11.1	13.7	9.2	7.5	6.6
Ferrosilicon	18.6	12.1	11.7	10.9	21.1
Ferrovanadium	7.0	4.4	3.5	6.1	5.2
Chromium metal	3.8	5.2	2.7	2.6	3.6
Manganese metal	11.5	5.0	4.6	8.7	5.9
Silicon metal	65.5	57.0	34.3	47.8	88.5
Total	139.7	107.8	71.1	88.4	141.4

Source: Compiled from official statistics of the U.S. Department of Commerce.

Apparent U.S. consumption

Table 5 indicates apparent consumption of the subject ferroalloy commodities. Apparent consumption fluctuated during the period 1980–1984, increasing from 2,376,200 tons ($1,327.7 million) in 1980 to 2,753,500 tons ($1,485.4 million) in 1981, and then dropping to 2,034,200 tons ($1,009.8 million) in 1984.

TABLE 5.—U.S. APPARENT CONSUMPTION OF FERROALLOY COMMODITIES

Source	1980	1981	1982	1983	1984
	(1,000 short tons of alloy or metal weight)				
Ferrochromium	482.5	648.4	262.7	313.9	545.0
Ferromanganese	1,039.5	1,149.2	724.1	615.4	663.8
Ferrosilicon	688.8	772.6	422.0	515.9	624.6
Other	165.4	183.3	128.2	175.4	200.8
Total [1]	2,376.2	2,753.5	1,537.0	1,620.6	2,034.2
	Value (in millions of dollars)				
Ferrochromium	305.4	385.0	159.3	141.4	284.9
Ferromanganese	409.8	451.2	273.3	190.7	214.3
Ferrosilicon	349.0	348.6	188.5	212.3	271.9
Other [1] [2]	263.5	300.6	175.2	199.1	238.7
Total [2]	1,327.7	1,485.4	796.3	743.5	1,009.8

[1] Includes ferrovanadium, chromium, manganese, and silicon metal.
[2] Estimated by the staff of the U.S. International Trade Commission.

Sources: U.S. Bureau of Mines and compiled from official statistics of the U.S. Department of Commerce.

Effect on revenue

It is expected that there would be little incentive for foreign producers to sell for less than the "fair price", as determined by the Secretary of Commerce, since any price below this figure would require the importer to pay the "fair price differential." The seller would rather collect the differential from the importer than have it paid to the U.S. Government. Where the seller and the importer are the same, the seller would want the selling price to reflect the differential, which would have the same effect. As a result, the U.S. Government would not realize any revenues from import duties on these products.

It is estimated that the U.S. Government would lose approximately $12.8 million in revenues during the full calendar year following enactment of the bill. This is based on the assumption that importers would all be selling at the fair price and no duties would be collected on these items. The $12.8 million estimate is obtained by multiplying the average duty rate of 3.4 percent ad valorem times the value of all (non-GSP) ferroalloy imports (valued at $374.7 million in 1984). This estimate can be broken down by product as follows: $6.0 million for ferrochromium imports; $4.1 million for ferrovanadium and base metals; $2.5 million for ferromanganese; and $200,000 for ferrosilicon. The effect of the MTN staged duty reductions on revenue loss would be negligible since duty reductions scheduled during the remaining period are minimal.

During the period from November 15, 1978 to November 15, 1982 there was a similar duty in effect, called a "break point price," for high-carbon ferrochromium. According to the Ferroalloys Association, the U.S. Government collected only a negligible amount of revenue during the period. A major importer of high-carbon ferrochromium has stated that virtually all sales were made at the break point price and, thus, no additional customs duties were paid.

GATT comments

To the extent that this legislation would have the effect of raising existing duty rates, it would be inconsistent with tariff concessions granted by the United States under the General Agreement on Tariffs and Trade (GATT). This could result in claims for compensation by other GATT contracting parties adversely affected by the increase in duty rates. An increase in duty would effectively result if the "fair

price differential" imposed against a product required the importer to pay more than is required as a result of the current duty rate. If, on the other hand, the legislation resulted in the importation of the product at the fair price and no differential had to be paid, there would be no increase in duties which would violate the GATT.

Even if the legislation were not to result in a duty increase, if it were considered to be designed to combat dumping it would violate Article VII of the GATT (the Customs Valuation Code). The Preamble to Article VII states that the contracting parties recognize that "valuation procedures should not be used to combat dumping . . .". This legislation imposes dumping duties based only on a finding of sales at less than a "fair price", without providing for the injury determination required by the dumping code.

Technical comments

This legislation would be difficult to administer. It requires the Secretary of Commerce to determine the average cost of producing an article in the United States at technologically efficient facilities and then to add an amount for general expenses and profit. No guidance is provided, however, for determining what is an efficient facility or how much should be added for general expenses and profit.

APPENDIX A

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1988)

GSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty LDDC	Rates of Duty 2
			Iron or steel waste and scrap (con.):				
			Other (con.):				
	606.11	00	Containing chromium, molybdenum, tungsten, or vanadium in amounts specified in headnote 4 of this subpart	Ton	Free		0.5% ad val. + additional duties (see headnote 4)
			Pig iron, cast iron, and spiegeleisen, all the foregoing in pigs, blocks, lumps, and similar forms:				
			Pig iron and cast iron:				
	606.13	00	Not containing chromium, molybdenum, tungsten, or vanadium in amounts specified in headnote 4 of this subpart	Ton	Free		$1.125 per ton
A	606.15	00	Containing chromium, molybdenum, tungsten, or vanadium in amounts specified in headnote 4 of this subpart	Ton	0.2% ad val. + additional duties (see headnote 4)		0.5% ad val. + additional duties (see headnote 4)
			Spiegeleisen:				
	606.17	00	Not containing chromium, molybdenum, tungsten, or vanadium in amounts specified in headnote 4 of this subpart	Ton	0.2% ad val.		0.5% ad val.
	606.19	00	Containing chromium, molybdenum, tungsten, or vanadium in amounts specified in headnote 4 of this subpart	Ton	0.9% ad val. + additional duties (see headnote 4)		1% ad val. + additional duties (see headnote 4)
	606.20	00	Ferronickel	Lb.....V nickel content.. Lb.	Free		3c per lb.
			Ferroalloys:				
			Ferrochromium:				
	606.22	00	Not containing over 3 percent by weight of carbon	Lb.....V chromium content.. Lb.	3.4% ad val.	3.1% ad val.	30% ad val.
	606.24	00	Containing over 3 percent by weight of carbon	Lb.....V chromium content.. Lb.	1.9% ad val.		7.5% ad val.
			Ferromanganese:				
A	606.26	00	Not containing over 1 percent by weight of carbon	Lb.....V manganese content.. Lb.	2.4% ad val.	2.3% ad val.	22% ad val.

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

GSP	Item	Stat Suf-fix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty LDDC	Rates of Duty 2
			Ferroalloys (con.):				
			Ferromanganese (con.):				
A	606.28	00	Containing over 1 percent but not over 4 percent by weight of carbon	Lb.....v	1.4¢ ad val.		6.5¢ ad val.
			manganese content	Lb.			
	606.30	00	Containing over 4 percent by weight of carbon	Lb.....v	1.5¢ ad val.		10.5¢ ad val.
			manganese content	Lb.			
	606.31	00	Ferromolybdenum	Lb.....v	5.2¢ ad val.	4.5¢ ad val.	31.5¢ ad val.
			molybdenum content	Lb.			
A	606.33	00	Ferrophosphorus	Lb.....	3.3¢ ad val.	2.4¢ ad val.	25¢ ad val.
			Ferrosilicon:				
	606.35		Containing over 8 percent but not over 60 percent by weight of silicon	.....	Free		2c per lb. on silicon content
		20	Containing over 8 percent but not over 30 percent by weight of silicon	Lb. v			
			silicon content	Lb.			
			Containing over 30 percent but not over 60 percent by weight of silicon:				
		42	Containing over 2 percent by weight of magnesium	Lb. v			
			silicon content	Lb.			
		46	Other	Lb. v			
			silicon content	Lb.			
			Containing over 60 percent but not over 80 percent by weight of silicon:				
A*	606.36	00	Containing over 3 percent by weight of calcium	Lb.....v	1.1¢ ad val.		11.5¢ ad val.
			silicon content	Lb.			
A*	606.37	00	Other	Lb.....v	1.6¢ ad val.	1.5¢ ad val.	11.5¢ ad val.
			silicon content	Lb.			
	606.39	00	Containing over 80 percent but not over 90 percent by weight of silicon	Lb.....v	1.9¢ ad val.		9¢ ad val.
			silicon content	Lb.			
	606.40	00	Containing over 90 percent by weight of silicon	Lb.....v	7.2¢ ad val.	5.6¢ ad val.	40¢ ad val.
			silicon content	Lb.			
	606.42	00	Ferrosilicon chromium	Lb.....v	10¢ ad val.		25¢ ad val.
			chromium content	Lb.			
A*	606.44	00	Ferrosilicon manganese	Lb.....v	6.4¢ ad val.	3.9¢ ad val.	23¢ ad val.
			manganese content	Lb.			

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

C S P	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty LDDC	Rates of Duty 2
			Ferroalloys (con.):				
	606.44	00	Ferrotitanium and ferrosilicon titanium	Lb	4.1% ad val.	3.7% ad val.	75% ad val.
A	606.48	00	Ferrotungsten and ferrosilicon tungsten	Lb....v	6.9% ad val.	5.6% ad val.	35% ad val.
			tungsten content	Lb			
	606.50	00	Ferrovanadium	Lb....v	4.8% ad val.	4.2% ad val.	25% ad val.
			vanadium content	Lb			
	606.51	00	Ferrozirconium	Lb	4.8% ad val.	4.2% ad val.	25% ad val.
	606.53	00	Other	Lb	5% ad val.		25% ad val.
			Sponge iron; iron or steel powders:				
			Sponge iron, including powders thereof:				
	606.55		Not containing chromium, molybdenum, tungsten, or vanadium in amounts specified in headnote 4 of this subpart		Free		$2.25 per ton
		20	Sponge iron powders	Ton			
		40	Other	Ton			
A	606.57	00	Containing chromium, molybdenum, tungsten, or vanadium in amounts specified in headnote 4 of this subpart	Ton	10c per ton + additional duties (see headnote 4)	Free	$2.25 per ton + additional duties (see headnote 4)
			Other powders:				
A	606.59	00	Other than alloy iron or steel	Lb	0.1c per lb.	Free	0.75c per lb.
			Alloy iron or steel:				
A	606.60	00	Stainless steel powders	Lb	0.3% ad val.		1% ad val.
A	606.62	00	Other	Lb	5.8% ad val.	4% ad val.	45% ad val.
A	606.64	00	Grit and shot, including wire pellets, of iron or steel	Lb	1% ad val.		3% ad val.
			Ingots, blooms, billets, slabs, and sheet bars, all the foregoing of iron or steel:				
	606.67		Other than alloy iron or steel		4.8% ad val.	4.2% ad val.	20% ad val.
			Blooms:				
		05	Of circular cross section	Lb			
		10	Other	Lb			
			Billets:				
		15	Of circular cross section	Lb			
		20	Other	Lb			
		25	Slabs	Lb			
		30	Sheet bars	Lb			
			Other:				
		35	Of rectangular cross section and having a width at least four times the thickness, over 6 inches in thickness	Lb			
		40	Other	Lb			
	606.69		Alloy iron or steel		6.1% ad val. + additional duties (see headnote 4)	5.1% ad val. + additional duties (see headnote 4)	28% ad val. + additional duties (see headnote 4)
			Of stainless steel:				
			Blooms:				
		03	Of circular cross section	Lb			
		06	Other	Lb			
			Billets:				
		09	Of circular cross section	Lb			
		12	Other	Lb			
		15	Slabs	Lb			
		18	Sheet bars	Lb			

Note: For explanation of the symbol "A" or "A*" in the column entitled "CSP", see general headnote 3(c).

CSF	Item	Stat Suffix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty LDDC	Rates of Duty 2
			Subpart K. - Other Base Metals				
			Subpart K headnotes: 1. This subpart covers base metals not provided for in subparts A through J of this part, and their alloys, wrought and unwrought, and also includes the waste and scrap of such base metals. This subpart does not cover ferrocerium and other pyrophoric alloys (see part 9A of schedule 7). 2. Alloys. For the purposes of the tariff schedules, alloys of each of the base metals provided for in this subpart are metals in which the content of the respective base metal is, by weight, less than 99.5 percent, but not less than any other metallic element. In the absence of context which requires otherwise, a reference to one of the base metals by name, wherever used in the tariff schedules, includes alloys of such base metal.				
			Other base metals, unwrought, and waste and scrap of such metals:				
			Other than alloys, and waste and scrap:				
A	632.02	00	Antimony	Lb.	0.3c per lb.	Free	2c per lb.
A	632.04	00	Arsenic	Lb.	0.5c per lb.	Free	5c per lb.
	632.06	00	Beryllium	Lb.	1.1% ad val.	Free	25% ad val.
	632.10	00	Bismuth	Lb.	Free		7.5% ad val.
A	632.12	00	Boron	Lb.	4% ad val.	3.7% ad val.	25% ad val.
	632.14		Cadmium		Free		15c per lb.
		20	Waste and scrap	Lb.			
		40	Other	Lb.			
	632.16	00	Calcium	Lb.	4.1% ad val.	3% ad val.	25% ad val.
A	632.18	00	Chromium	Lb.	4% ad val.	3.7% ad val.	30% ad val.
	632.20	00	Cobalt	Lb.	Free		Free
	632.24	00	Gallium	Lb.	4% ad val.	3.7% ad val.	25% ad val.
			Manganese:				
	632.28	00	Waste and scrap	Lb.	3.7% ad val.	3.6% ad val.	20% ad val.
	632.30	00	Unwrought	Lb.	14% ad val.		20% ad val.

Note: For explanation of the symbol "A" or "A*" in the column entitled "CSF", see general headnote 3(c).

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty LDDC	Rates of Duty 2
			Other base metals, unwrought, and waste and scrap of such metals (con.):				
			Other than alloys; and waste and scrap (con.):				
A	632.36		Mercury		8.8c per lb. 1/	7.5c per lb. 1/	25c per lb.
		20	Waste and scrap	Lb.			
		40	Other	Lb.			
	632.38	00	Rare-earth metals (including scandium and yttrium)	Lb	4% ad val.	3.7% ad val.	25% ad val.
	632.40	00	Selenium	Lb	Free		Free
			Silicon:				
A	632.42	00	Containing by weight not over 99.7 percent of silicon	Lb + silicon content	5.3% ad val.		21% ad val.
	632.43	00	Containing by weight over 99.7 percent of silicon	Lb + silicon content	4% ad val.	3.7% ad val.	25% ad val.
	632.44	00	Strontium	Lb	4% ad val.	3.7% ad val.	25% ad val.
	632.46	00	Tellurium	Lb	1% ad val.	Free	25% ad val.
	632.50	00	Thallium	Lb	1.1% ad val.	Free	25% ad val.
	632.52	00	Thorium	Lb	4.7% ad val.	4.2% ad val.	25% ad val.
	632.58	00	Vanadium	Lb	4% ad val.	3.7% ad val.	25% ad val.
			Alloys of base metals:				
			Alloys of antimony:				
A	632.60	00	Containing by weight 93 percent or more of antimony	Lb	0.2c per lb.	Free	2c per lb.
A	632.62	00	Other	Lb	6.4% ad val.	5.5% ad val.	45% ad val.
			Alloys of bismuth:				
	632.64	00	Containing by weight not less than 30 percent of lead + lead content	Lb + Lb	Free		2.125c per lb. on lead content
A	632.66	00	Other + bismuth content	Lb + Lb	6.4% ad val.	5.5% ad val.	45% ad val.
	632.68	00	Alloys of barium, boron, calcium, strontium, thorium, or vanadium	Lb	4.1% ad val.	3% ad val.	25% ad val.
			Alloys of rare-earth metals (including scandium and yttrium):				
	632.74	00	Alloys wholly or almost wholly of rare-earth metals (each metal)	Lb	10c per lb.	32c per lb.	92 per lb.
	632.79	00	Other	Lb	27c per lb. + 3.3% ad val.	20c per lb. + 2.4% ad val.	92 per lb. + 25% ad val.
			Other alloys, unwrought:				
	632.86	00	Containing by weight 96 percent or more but less than 99 percent of silicon	Lb	9% ad val.		45% ad val.
	632.88	00	Other	Lb	6.4% ad val. 2/	5.5% ad val. 2/	45% ad val.
A	633.00	00	Other base metals, wrought	Lb	6.4% ad val.	5.5% ad val.	45% ad val.

1/ Duty temporarily reduced. See item 947.30 in part 2, Appendix to the Tariff Schedules, and general headnote 3(d)(ii).

2/ Duty on unwrought alloys of cobalt containing, by weight, 70% or more but less than 99% cobalt, temporarily suspended. See item 911.90 in part 1B, Appendix to the Tariff Schedules, and general headnote 3(d)(ii).

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

APPENDIX B

HISTORY OF THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED

Part 2

Table Index

Modifications of column 1 rates of duty by Pres. Proc. 4767 (Torquay Round), September 11, 1950, as T.D. 53148, as amended and Pres. Proc. 4769 (Geneva Negotiations Cont.), June 30, 1960, as T.D. 60135, as amended (see Preface

Item	Prior rate	Rates of duty 1/, effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after the ...								
		January 1, 1962, except as noted	January 1, 1963	January 1, 1964	January 1, 1965	January 1, 1966	January 1, 1967	January 1, 1968	January 1, 1969	January 1, 1970
603.03	20% ad val.	18.5%	17.1%	15.6%	14.1%	12.6%	11.2%	9.7%	8.3%	
603.05	25% ad val.	23.1%	21.3%	19.4%	17.5%	15.6%	13.8%	11.9%	10%	
603.06	12% ad val.	11.3%	10.4%	9.4%	8.5%	7.6%	6.7%	5.8%	4.9%	
603.08	20% ad val.	18.5%	17.1%	15.6%	14.1%	12.6%	11.2%	9.7%	8.3%	
603.27	14% ad val.	14.9%	13.9%	12.8%	11.8%	10.7%	9.6%	8.6%	7.5%	
603.28	20% ad val.	18.5%	17.1%	15.6%	14.1%	12.6%	11.2%	9.7%	8.3%	
603.66	16% ad val.	14.9%	13.9%	12.8%	11.8%	10.7%	9.6%	8.6%	7.5%	
603.67	25% ad val.	23.1%	21.3%	19.4%	17.5%	15.6%	13.8%	11.9%	10%	
603.68	10.5% ad val.	9.9%	9.4%	8.8%	8.3%	7.7%	7.1%	6.6%	6%	
603.69	12% ad val.	11.3%	10.6%	9.9%	9.3%	8.6%	7.9%	7.2%	6.5%	
603.65	10.5% ad val.	9.9%	9.4%	8.8%	8.3%	7.7%	7.1%	6.6%	6%	
606.11	18¢ per ton + additional duties	18¢ per ton + additional duties	18¢ per ton + additional duties	Free	Free	Free	Free	Free	Free	
606.19	75¢ per ton + additional duties	75¢/ton + additional duties	75¢/ton + additional duties	0.9% + additional duties	0.9% + additional duties	0.9% + additional duties	0.9% + additional duties	0.9% + additional duties	0.9% + additional duties	
606.22	4% ad val.	4%	4%	3.9%	3.7%	3.6%	3.4%	3.3%	3.1%	
606.26	0.3¢ per lb. on manganese content + 2% ad val.	0.3¢/lb. on manganese content + 2%	0.3¢/lb. on manganese content + 2%	2.6%	2.6%	2.5%	2.4%	2.4%	2.3%	
606.28	0.44¢ per lb. on manganese content	0.44¢/lb. on manganese content	0.44¢/lb. on manganese content	1.6%	1.6%	1.6%	1.6%	1.6%	1.6%	
606.30	0.3¢ per lb. on manganese content	0.3¢/lb. on manganese content	0.3¢/lb. on manganese content	1.6%	1.6%	1.6%	1.5%	1.5%	1.5%	
606.31	10¢ per lb. on molybdenum content + 3% ad val.	10¢/lb. on molybdenum content + 3%	10¢/lb. on molybdenum content + 3%	6.3%	5.9%	5.6%	5.2%	4.9%	4.5%	
606.33	6% ad val.	5.6%	5.1%	4.7%	4.2%	3.8%	3.3%	2.9%	2.4%	
606.36	0.3¢ per lb. on silicon content	0.3¢/lb. on silicon content	0.3¢/lb. on silicon content	1.1%	1.1%	1.1%	1.1%	1.1%	1.1%	
606.37	0.5¢ per lb. on silicon content	0.5¢/lb. on silicon content	0.5¢/lb. on silicon content	1.6%	1.6%	1.6%	1.6%	1.5%	1.5%	
606.39	1¢ per lb. on silicon content	1¢/lb. on silicon content	1¢/lb. on silicon content	1.9%	1.9%	1.9%	1.9%	1.9%	1.9%	
606.40	2¢ per lb. on silicon content	2¢/lb. on silicon content	2¢/lb. on silicon content	9.3%	8.6%	7.9%	7.2%	6.5%	5.8%	
606.44	0.44¢ per lb. on manganese content + 3.5% ad val.	0.44¢/lb. on manganese content + 3.5%	0.44¢/lb. on manganese content + 3.5%	5.2%	5%	4.7%	4.4%	4.2%	3.9%	
606.46	5% ad val.	5%	5%	4.8%	4.6%	4.4%	4.1%	3.9%	3.7%	
606.48	21¢ per lb. on tungsten content + 6% ad val.	21¢/lb. on tungsten content + 6%	21¢/lb. on tungsten content + 6%	8.8%	8.2%	7.5%	6.9%	6.2%	5.6%	
606.50	6% ad val.	6%	6%	5.7%	5.4%	5.1%	4.8%	4.5%	4.2%	
606.51	5% ad val.	6%	6%	5.7%	5.4%	5.1%	4.8%	4.5%	4.2%	
606.57	31¢ per ton + additional duties	31¢/ton + additional duties	31¢/ton + additional duties	25¢/ton + additional duties	20¢/ton + additional duties	15¢/ton + additional duties	10¢/ton + additional duties	5¢/ton + additional duties	Free	
606.59	0.3¢ per lb.	0.3¢/lb.	0.3¢/lb.	0.25¢/lb.	0.2¢/lb.	0.15¢/lb.	0.1¢/lb.	0.05¢/lb.	Free	

1/ The symbol "%" indicates percent ad valorem. The symbol "¢" indicates per stated unit of quantity.

(Supp. [illegible])

Modifications of column 1 rates of duty by Pres. Proc. ... (Tokyo Round), December 22, 1979, as T.D. 7[illegible]8, as amended and Pres. [illegible] (Uruguay Round), December 28, 1988, 43 F.R. 4[illegible], as amended. See [illegible]

Item	Basic rate	Stage I - [illegible] on articles entered, or withdrawn from warehouse, for consumption on or after [illegible]							
		January 1, 1987 except as noted	January 1, 1988	January 1, 1989	January 1, 1990	January 1, 1991	January 1, 1992	January 1, 1993	January 1, 1994
628.65	5% ad va	3%	3.5%	4%	4.5%	5%	5.0%	0.2%	Free
628.67	8% ad va	6.5%	7%	7%	7.5%	8%	6.5%	3%	3.5%
628.68	7% ad va	6%	6%	6.5%	6.5%	7%	5.5%	2%	3%
628.69	6% ad va	5%	5%	5%	5%	6%	4.5%	1%	2%
628.70	6c per lb. on magnesium content + 6% ad val.	6.2c/lb. on magnesium content + 3.4% ad val.	6c/lb. on magnesium content + 3.3% ad val.	5.7c/lb. on magnesium content + 3.1% ad val.	5.5c/lb. on magnesium content + 3% ad val.	5.2c/lb. on magnesium content + 2.9% ad val.	5c/lb. on magnesium content + 2.8% ad val.	4.7c/lb. on magnesium content + 2.6% ad val.	4.5c/lb. on magnesium content + 2.5% ad val.
628.71	10.5% ad val.	9.9%	9.4%	8.8%	8.3%	7.7%	7.1%	6.6%	6%
628.72	10c per lb. on molybdenum content + 3% ad val.	9.5c/lb. on molybdenum content + 2.9% ad val.	9c/lb. on molybdenum content + 2.7% ad val.	8.6c/lb. on molybdenum content + 2.6% ad val.	8.1c/lb. on molybdenum content + 2.5% ad val.	7.6c/lb. on molybdenum content + 2.3% ad val.	7.0c/lb. on molybdenum content + 2.2% ad val.	6.5c/lb. on molybdenum content + 2% ad val.	6.3c/lb. on molybdenum content + 1.9% ad val.
628.74	12.5% ad val.	11.8%	11%	10.3%	9.6%	8.8%	8.1%	7.3%	6.6%
628.90	5% ad val.	4.8%	4.7%	4.5%	4.4%	4.2%	4%	3.9%	3.7%
628.95	9% ad val.	8.6%	8.1%	7.7%	7.3%	6.8%	6.4%	5.9%	5.5%
629.05	5% ad val.	4.8%	4.7%	4.5%	4.4%	4.2%	4%	3.9%	3.7%
629.07	7.5% ad val.	7.2%	6.9%	6.5%	6.2%	5.9%	5.6%	5.2%	4.9%
629.10	9% ad val.	8.6%	8.1%	7.7%	7.3%	6.8%	6.4%	5.9%	5.5%
629.12	18% ad val.	16.7%	15.3%	14%	12.6%	11.3%	9.9%	8.6%	7.2%
629.14	18% ad val.	18%	18%	17.5%	17%	16.5%	16%	15.5%	15%
629.20	18% ad val.	18%	18%	17.5%	17%	16.5%	16%	15.5%	15%
629.25	21c per lb. on tungsten content + 6% ad val.	7.3%	6.9%	6.6%	6.3%	5.9%	5.6%	5.2%	4.9%
629.26	10.5% ad val.	7.5%	6.5%	6.2%	6.2%	6.2%	6.2%	6.2%	6.2%
629.28	21c per lb. on tungsten content + 12.5% ad val.	21c/lb. on tungsten content + 12.5%	21c/lb. on tungsten content + 12.5%	15c/lb. on tungsten content + 12.5%	9c/lb. on tungsten content + 12.5%	3c/lb. on tungsten content + 12.5%	12.1%	11.3%	10.5%
629.29	10.5% ad val.	10.5%	10.5%	9.8%	9%	8.2%	7.5%	6.8%	6%
629.30	12.5% ad val.	12.5%	12.5%	11.5%	10.5%	9.6%	8.6%	7.6%	6.6%
629.32	21c per lb. on tungsten content + 6% ad val.	6.7%	6.4%	6.1%	5.9%	5.6%	5.3%	5%	4.7%
629.33	12.5% ad val.	12.5%	12.5%	11.5%	10.5%	9.6%	8.6%	7.6%	6.6%
629.35	12.5% ad val.	11.8%	11%	10.3%	9.5%	8.8%	8%	7.3%	6.5%
629.50	12.5% ad val.	11.6%	10.6%	9.7%	8.8%	7.8%	6.9%	5.9%	5%
629.60	6% ad val.	5.8%	5.6%	5.3%	5.1%	4.9%	4.7%	4.4%	4.2%
629.62	7.5% ad val.	7.2%	6.9%	6.5%	6.2%	5.9%	5.6%	5.2%	4.9%
629.65	9% ad val.	8.6%	8.1%	7.7%	7.3%	6.8%	6.4%	5.9%	5.5%
631.02	1c per lb.	0.9c/lb.	0.8c/lb.	0.8c/lb.	0.7c/lb.	0.6c/lb.	0.5c/lb.	0.1c/lb.	Free
632.04	2c per lb.	1.8c/lb.	1.5c/lb.	1.3c/lb.	1c/lb.	0.8c/lb.	0.5c/lb.	0.3c/lb.	Free
632.06	5% ad val.	4.6%	3.8%	3.1%	2.5%	1.9%	1.3%	0.6%	Free
632.12	5% ad val.	4.8%	4.7%	4.5%	4.4%	4.2%	4%	3.9%	3.7%
632.18	7.5% ad val.	6.9%	6.4%	5.8%	5.3%	4.7%	4.1%	3.6%	3%
632.20	9% ad val.	4.8%	4.7%	4.5%	4.4%	4.2%	4%	3.9%	3.7%
632.24	5% ad val.	4.8%	4.7%	4.5%	4.4%	4.2%	4%	3.9%	3.7%
632.28	2.5c per lb. + 10% ad val.	13%	11.9%	10.9%	9.8%	8.8%	7.7%	6.7%	5.6%
632.34	12.5c per lb.	11.9c/lb.	11.3c/lb.	10.6c/lb.	10c/lb.	9.4c/lb.	8.8c/lb.	8.1c/lb.	7.5c/lb.
632.38	5% ad val.	4.8%	4.7%	4.5%	4.4%	4.2%	4%	3.9%	3.7%
632.42	2c per lb. on silicon carbide	5.3%	5.3%	5.3%	5.3%	5.3%	5.3%	5.3%	5.3%
632.43	5% ad val.	4.8%	4.7%	4.5%	4.4%	4.2%	4%	3.9%	3.7%

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

APPENDIX C

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

28-3

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
		1. CHEMICAL ELEMENTS				
2801		Fluorine, chlorine, bromine and iodine:				
2801.10.00	00	Chlorine	kg	Free		25%
2801.20.00	00	Iodine	kg	Free		Free
2801.30		Fluorine; bromine:				
2801.30.10	00	Fluorine	kg	3.7%		25%
2801.30.20	00	Bromine	kg	4.4¢/kg		22¢/kg
2802.00.00	00	Sulfur, sublimed or precipitated; colloidal sulfur	t	Free		Free
2803.00.00		Carbon (carbon blacks and other forms of carbon not elsewhere specified or included)		Free		20%
	10	Carbon black	kg			
	50	Other	kg			
2804		Hydrogen, rare gases and other nonmetals:				
2804.10.00	00	Hydrogen	thousand m^3	3.7%		25%
		Rare gases:				
2804.21.00	00	Argon	thousand m^3	3.7%		25%
2804.29.00	00	Other	thousand m^3	3.7%		25%
2804.30.00	00	Nitrogen	thousand m^3	3.7%		25%
2804.40.00	00	Oxygen	thousand m^3	3.7%		25%
2804.50.00	00	Boron; tellurium	kg	Free		25%
		Silicon:				
2804.61.00	00	Containing by weight not less than 99.99 percent of silicon	kg	3.7%		25%
2804.69		Other:				
2804.69.10	00	Containing by weight less than 99.99 percent but not less than 99 percent of silicon	kg	5.3%		21%
			silicon content	kg ▽		
2804.69.50	00	Other	kg	4%		45%
			silicon content	kg ▽		
2804.70.00	00	Phosphorus	kg	Free		17.6¢/kg
2804.80.00	00	Arsenic	kg	Free		13.2¢/kg
2804.90.00	00	Selenium	kg	Free		Free
2805		Alkali or alkaline-earth metals; rare-earth metals, scandium and yttrium, whether or not intermixed or interalloyed; mercury:				
		Alkali metals:				
2805.11.00	00	Sodium	kg	5.3%		25%
2805.19.00	00	Other	kg	6.6% ❶		25%
		Alkaline-earth metals:				
2805.21.00	00	Calcium	kg	3%		25%
2805.22.00	00	Strontium and barium	kg	3.7%		25%
2805.30.00	00	Rare-earth metals, scandium and yttrium, whether or not intermixed or interalloyed	kg	70.5¢/kg		$4.41/kg
2805.40.00	00	Mercury	kg	16.5¢/kg		55.1¢/kg
		II. INORGANIC ACIDS AND INORGANIC OXYGEN COMPOUNDS OF NONMETALS				
2806		Hydrogen chloride (hydrochloric acid); chlorosulfonic acid:				
2806.10.00	00	Hydrogen chloride (hydrochloric acid)	kg	Free		Free
2806.20.00	00	Chlorosulfonic acid (sulfuric chlorohydric)	kg	4.2%		25%
2807.00.00	00	Sulfuric acid; oleum	kg	Free		Free
2808.00.00		Nitric acid; sulfonitric acids		Free		Free
	10	Nitric acid	kg			
	20	Sulfonitric acids	kg			

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

72-6

Heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
7202		Ferroalloys:				
		Ferromanganese:				
7202.11		Containing by weight more than 2 percent of carbon:				
7202.11.10	00	Containing by weight more than 2 percent but not more than 4 percent of carbon	kg	1.4%		6.5%
		manganese content	kg v			
7202.11.50	00	Containing by weight more than 4 percent of carbon	kg	1.5%		10.5%
		manganese content	kg v			
7202.19		Other:				
7202.19.10	00	Containing by weight not more than 1 percent of carbon	kg	2.3%		22%
		manganese content	kg v			
7202.19.50	00	Containing by weight more than 1 percent but not more than 2 percent of carbon	kg	1.4%		6.5%
		manganese content	kg v			
		Ferrosilicon:				
7202.21		Containing by weight more than 55 percent of silicon:				
		Containing by weight more than 55 percent but not more than 90 percent of silicon:				
7202.21.10	00	Containing by weight more than 3 percent of calcium	kg	1.1%		11.5%
		silicon content	kg v			
7202.21.50	00	Other	kg	1.3%		11.5%
		silicon content	kg v			
7202.21.90	00	Containing by weight more than 90 percent of silicon	kg	3.8%		40%
		silicon content	kg v			
7202.29.00		Other		Free		4.4¢/kg on silicon content
	10	Containing by weight over 2 percent of magnesium	kg			
		silicon content	kg v			
	50	Other	kg			
		silicon content	kg v			
7202.30.00	00	Ferrosilicon manganese	kg	3.9%		23%
		manganese content	kg v			
		Ferrochromium:				
7202.41.00	00	Containing by weight more than 4 percent of carbon	kg	1.9%		7.5%
		chromium content	kg v			
7202.49		Other:				
7202.49.10	00	Containing by weight more than 3 percent of carbon	kg	1.9%		7.5%
		chromium content	kg v			
7202.49.50	00	Other	kg	3.1%		30%
		chromium content	kg v			
7202.50.00	00	Ferrosilicon chromium	kg	10%		25%
		chromium content	kg v			

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
7202 (con.)		Ferroalloys (con.):				
7202.60.00	00	Ferronickel	kg	Free		6.6¢/kg
		nickel content	kg +			
7202.70.00	00	Ferromolybdenum	kg	4.5%		31.5%
		molybdenum content	kg +			
7202.80.00	00	Ferrotungsten and ferrosilicon tungsten	kg	5.6%		35%
		tungsten content	kg +			
		Other:				
7202.91.00	00	Ferrotitanium and ferrosilicon titanium	kg	3.7%		25%
7202.92.00	00	Ferrovanadium	kg	4.2%		25%
		vanadium content	kg +			
7202.93.00	00	Ferroniobium	kg	5%		25%
7202.99		Other:				
7202.99.10	00	Ferrozirconium	kg	4.2%		25%
7202.99.50	00	Other	kg	5%		25%
7203		Ferrous products obtained by direct reduction of iron ore and other spongy ferrous products, in lumps, pellets or similar forms; iron having a minimum purity by weight of 99.94 percent, in lumps, pellets or similar forms:				
7203.10.00	00	Ferrous products obtained by direct reduction of iron ore	t	Free	1	$2.21/t
7203.90.00	00	Other	t	Free	1	$2.21/t
7204		Ferrous waste and scrap; remelting scrap ingots of iron or steel:				
7204.10.00	00	Waste and scrap of cast iron	t	Free	1	74¢/t
		Waste and scrap of alloy steel:				
7204.21.00	00	Of stainless steel	t	Free	1	74¢/t
7204.29.00	00	Other	t	Free	1	74¢/t
7204.30.00	00	Waste and scrap of tinned iron or steel	t	Free		Free
		Other waste and scrap:				
7204.41.00	00	Turnings, shavings, chips, milling waste, sawdust, fillings, trimmings and stampings, whether or not in bundles	t	Free	1	74¢/t
7204.49.00	00	Other	t	Free	1	74¢/t
7204.50.00	00	Remelting scrap ingots	t	Free	1	74¢/t
7205		Granules and powders, of pig iron, spiegeleisen, iron or steel:				
7205.10.00	00	Granules	kg	1%		3%
		Powders:				
7205.21.00	00	Of alloy steel	kg	4%		45%
7205.29.00	00	Other	t	Free	1	$2.21/t

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

Heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
8105		Cobalt mattes and other intermediate products of cobalt metallurgy; cobalt and articles thereof, including waste and scrap:				
8105.10		Cobalt mattes and other intermediate products of cobalt metallurgy; unwrought cobalt; waste and scrap; powders:				
		Unwrought cobalt:				
8105.10.30	00	Alloys	kg	5.3%		45%
8105.10.60	00	Other	kg	Free		Free
8105.10.90	00	Other	kg	Free		Free
8105.90.00	00	Other	kg	5.5%		45%
8106.00.00	00	Bismuth and articles thereof, including waste and scrap	kg	Free		7.5%
8107		Cadmium and articles thereof, including waste and scrap:				
8107.10.00	00	Unwrought cadmium; waste and scrap; powders	kg	Free		33c/kg
8107.90.00	00	Other	kg	5.5%		45%
8108		Titanium and articles thereof, including waste and scrap:				
8108.10		Unwrought titanium; waste and scrap; powders:				
8108.10.10	00	Waste and scrap	kg	Free		Free
8108.10.50		Other		15%		25%
	10	Sponge	kg			
	50	Other	kg			
8108.90		Other:				
8108.90.30	00	Articles of titanium	kg	5.5%		45%
8108.90.60	00	Other	kg	15%		45%
8109		Zirconium and articles thereof, including waste and scrap:				
8109.10		Unwrought zirconium; waste and scrap; powders:				
8109.10.30	00	Waste and scrap	kg	Free		Free
8109.10.60	00	Other	kg	4.2%		25%
8109.90.00	00	Other	kg	5.5%		45%
8110.00.00	00	Antimony and articles thereof, including waste and scrap	kg	Free		4.4¢/kg
8111.00		Manganese and articles thereof, including waste and scrap:				
8111.00.30	00	Waste and scrap	kg	Free		Free
8111.00.60	00	Other	kg	14%		20%

81-6

Heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
8112		Beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium), rhenium and thallium, and articles of these metals, including waste and scrap:				
8112.11		Beryllium: Unwrought; waste and scrap; powders:				
8112.11.30	00	Waste and scrap	kg	Free		Free
8112.11.60	00	Other	kg	8.5%		25%
8112.19.00	00	Other	kg	5.5%		45%
8112.20		Chromium:				
8112.20.30	00	Waste and scarp	kg	Free		Free
8112.20.60	00	Other	kg	3.7%		30%
8112.30		Germanium:				
8112.30.30	00	Waste and scrap	kg	Free		Free
		Other:				
8112.30.60	00	Unwrought	kg	3.7%		25%
8112.30.90	00	Other	kg	5.5%		45%
8112.40		Vanadium:				
8112.40.30	00	Waste and scrap	kg	Free		Free
		vanadium content	kg	v		
8112.40.60	00	Other	kg	3%		25%
		vanadium content	kg	v		
		Other:				
8112.91		Unwrought; waste and scrap; powders:				
8112.91.05	00	Waste and scrap	kg	Free		Free
		Other:				
8112.91.10	00	Gallium	kg	3.7%		25%
8112.91.20	00	Hafnium	kg	Free		25%
8112.91.30	00	Indium	kg	Free		25%
8112.91.40	00	Niobium (Columbium)	kg	4.9%		25%
8112.91.50	00	Rhenium	kg	3.7%		25%
8112.91.60	00	Thallium	kg	5.5%		25%
8112.99.00	00	Other	kg	5.5%		45%
8113.00.00	00	Cermets and articles thereof, including waste and scrap	kg	5.5%		45%

U.S. DEPARTMENT OF COMMERCE,
Washington, DC, June 21, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in response to your request for the views of this Department on H.R. 976, a bill "To provide for the preservation of the ferroalloy industry in the United States."

The Department of Commerce opposes enactment of H.R. 976.

This bill would eliminate all of the present duties on ferroalloys provided for in the Tariff Schedules of the United States, and establish a system of variable duties on these products. The variable duty on a given product would equal the difference between the landed value of imported products and a "fair price" to be determined each year by the Secretary of Commerce. The "fair price" would be the average cost of producing such an article in the United States at technologically efficient facilities, plus an amount for general expenses and profit. If the landed value of an imported product were at or above the "fair price," no duty would be payable. If the landed value were below the "fair price," a duty equal to the difference between the landed value and the "fair price" would be payable.

Most of the ferroalloy products subject to the bill currently are dutiable. Present Column 1 (MFN) rates range between 1.1 and 14 percent *ad valorem*. One of the products in question now enters duty free; it too would be subject to the variable duty. All of the products covered by the bill are bound in the General Agreement on Tariffs and Trade (GATT), and a number of them are presently accorded duty-free treatment under the U.S. Generalized System of Preferences (GSP). A table showing the present duty status, GSP treatment, and the final staged tariff rate resulting from concessions made in the Tokyo Round of trade negotiations for each of the products included in the bill is enclosed.

The Department is opposed to enactment of H.R. 976 because it is contrary to free market principles, would impair our bindings in the GATT, and would increase production costs of the domestic steel industry and other domestic industries using these products.

The duties on all of the products covered by H.R. 976 are bound against increase under the provisions of the GATT. Increases in these duties could be viewed by our trading partners as contrary to our international obligations under the GATT. The United States may then be subject to requests for offsetting tariff reductions, or U.S. exporters could be subject to retaliatory action by U.S. trading partners on an equivalent amount of trade. In 1984, imports of the products in question totalled approximately $489 million.

A "fair price" determined in accordance with the bill's provisions is likely to be well above the average price of imported products, and the probable effect of the bill would be to increase substantially their cost. Consequently the costs of production of U.S. end users of ferroalloys would be increased, thereby impairing their ability to compete with foreign producers who obtain ferroalloys at a lower cost.

Although ferroalloys are essential for national defense purposes, some of the materials in question are held in the National Defense Stockpile, and a program is being carried out to augment existing stocks.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to Comgress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS,
General Counsel.

(Enclosure.)

U.S. TARIFF RATES

TSUSA No.	Description	Column 1	LDDC	Column 2	GSP eligible	MTN
606.22	Ferrochromium, not containing over 3% by weight of carbon.	3.4%	3.1%	30%	No	3.1%
606.24	Ferrochromium, containing over 3% by weight of carbon.	1.9%		7.5%	No	1.9%
606.26	Ferromanganese, not containing over 1% by weight of carbon.	2.4%	2.3%	22%	Yes	2.3%

U.S. TARIFF RATES—Continued

TSUSA No.	Description	Column 1	LDDC	Column 2	GSP eligible	MTN
606.28	Ferromanganese, containing over 1% but not over 4% by weight of carbon.	1.4%		6.5%	Yes	1.4%
606.30	Ferromanganese, containing over 4% by weight of carbon.	1.5%		10.5%	No	1.5%
606.35	Ferrosilicon, containing ore, 8% but not over 60% by weight of silicon.	Free		2¢ lb. on silicon content.	No	Free
606.36	Ferrosilicon, containing over 3% by weight of calcium.	1.1%		11.5%	Yes*	1.1%
606.37	Ferrosilicon, Other	1.6%	1.5%	11.5%	Yes*	1.5%
606.39	Ferrosilicon, containing over 80% but not over 90% by weight of silicon.	1.9%		9%	No	2.2%
606.40	Ferrosilicon, containing over 90% by weight of silicon.	7.2%	5.8%	40%	No	5.8%
606.42	Ferrosilicon chromium	10%		25%	No	10.0%
606.44	Ferrosilicon manganese	4.4%	3.9%	23%	Yes*	3.9%
606.50	Ferrovanadium	4.8%	4.2%	25%	No	4.2%
632.18	Chromium	4.0%	3.7%	30%	Yes	3.7%
632.30	Manganese, unwrought	14.0%		20%	No	14.0%
632.42	Silicon, containing by weight not over 99.7% silicon.	5.3%		21%	Yes	5.3%
632.86	Other alloys, unwrought containing by weight 96% or more but less than 99% of silicon.	9.0%		45%	No	9.0%

*Except from Brazil.

STATEMENT OF PAUL R. ROEDEL, CHAIRMAN, ADVISORY COMMITTEE OF THE SPECIALTY STEEL INDUSTRY OF THE UNITED STATES

Mr. Chairman and members of the subcommittee, I am Paul R. Roedel, Chairman of the Advisory Committee of the Specialty Steel Industry of the United States, and President and Chief Executive Office of Carpenter Technology Corporation. We appreciate this opportunity to comment on H.R. 976, a bill to establish a so-called "breakpoint" price system for imports of ferroalloys into the United States.

The specialty steel industry is a modern, cost-competitive and high-technology sector of the American steel industry. This fact has been proven repeatedly in many successful trade cases that we have brought over the years. Our products are essential to America's highly industrialized economy. Our stainless steels, special alloys and tool steels are also critical to the national defense. Among the industries which are dependent upon specialty steels are aerospace and aircraft, electronics, food processing, transportation, marine equipment, petroleum, electric power, machine tools and chemical processing. Tool and high-speed steels are the tools which make everything else in our industrialized economy.

The interest of the Specialty Steel Industry of the United States in this legislation is limited primarily to ferrochrome, although our industry also uses ferrosilicon and ferromanganese.

The Specialty Steel Industry of the United States strongly opposes a breakpoint price system for imports of ferroalloys as proposed in H.R. 976, particularly regarding ferrochrome. The system would cause dramatic raw material cost increases for the U.S. specialty steel industry, and undermine Congressional and Presidential initiatives to provide import relief for our industry. For specialty steel, ferrochrome is a crucial and substantial element of the cost of producing our products.

The Specialty Steel Industry is itself seriously injured by imports and is receiving import relief as implemented by President Reagan. It is senseless to increase our costs and reduce our competitiveness while we are struggling against subsidized imports.

The Specialty Steel Industry favors the retention of domestic ferroalloys production capacity, and for that reason had originally suggested the President's stockpile conversion program and supported the ferroalloy Buy American policies implemented by the U.S Department of Defense. We believe that those policies are effective means of maintaining sufficient ferroalloys production capacity to meet times of national emergency. In contrast, while the objective of H.R. 976 to help the ferrochrome industry is worthwhile, it offers the wrong remedy.

A breakpoint price system in an inappropriate and counterproductive means of achieving those ends. It artifically inflates the cost of all ferrochrome, both that purchased domestically and abroad. We conservatively estimate that the cost of such a system to the U.S. specialty steel industry will be at least $35.5 million for high carbon ferrochrome. Because of the natural competitive advantages enjoyed by foreign producers, the bulk of these added revenues will flow as profits to foreign, not domestic, ferroalloys producers. In fact, this legislation would provide a hugh windfall profit to South Africa and other foreign producers.

Attached for your information is a memorandum from Mr. Richard P. Simmons, President of Allegheny Ludlum Steel Corporation, describing its attempts to assist the domestic ferrochrome industry. Our company is also voluntarily attempting to increase our consumption of domestic ferrochrome to keep American ferroalloy producers viable.

The proposed ferroalloys breakpoint price system will seriously undercut the specialty steel import relief program. The legislation would reduce our ability to compete, both in the U.S. market and in export markets. It is unnecessary and unwise. If this legislation is enacted, our efforts to effectively utilize the period of relief from unfairly traded imports will be handicapped, if not negated, with devastating effect on the domestic specialty steel industry and U.S. national security. We therefore respectfully urge you to oppose any ferroalloys breakpoint price legislation covering ferrochrome.

[Attachment]

ALLEGHENY LUDLUM STEEL CORP.,
Pittsburgh, PA, May 31, 1985.

Memorandum Re ferroalloys legislation.
From: R.P. Simmons.

As a result of the introduction of a bill in the House as well as one in the Senate to establish "breakpoint" prices for certain ferroalloys, I thought it would be appropriate to summarize the history of our industry with regard to the issue of domestically produced ferroralloys as well as to describe the negative impact that any "breakpoint" price for ferrochromium would have on Allegheny Ludlum Steel Corporation and every other specialty steel producer in the United States.

Allegheny Ludlum Steel Corporation is one of the two or three largest consumers of ferrochromium in the United States. This ferroalloy is used in the alloying of stainless steel, tool steel and other specialty steels that contain chromium. Through the U.S. development of the argon-oxygen decarburization process in the late 1960's the use of a much less costly form of ferrochromium was possible thus making U.S. stainless producers far more competitive with producers throughout the world. In fact, this technology has now been adopted by virtually all specialty steel producers throughout the world.

During the period from the late 1960's until 1980, a tremendous increase in world capacity for smelting ferrochromium was put into place. Most of this new capacity has been put into place in South Africa and Zimbabwe although smaller amounts of capacity have been put into other countries throughout the world which like South Africa have chromium ore nearby to be used in the smelter. U.S. producers of ferrochromium have always had to import ores from Russia, Turkey, Yugoslavia, Finland, Zimbabwe, and South Africa to a lesser degree since the U.S. has no economic ore bodies. Whem foreign producers located smelters near their mines, it put U.S. producers at a significant cost disadvantage to foreign producers, all factors considered.

One of the most important cost factors is the fact that beween 2 and 2.5 tons of chromium ore must be shipped to the United States to produce one ton of ferrochromium in the United States. This is a significant transportation disadvantage. In addition, the rapid increase in energy costs in the United States put U.S. producers at a significant energy cost disadvantage as compared to other parts of the world. Furthermore, while labor is a relatively small component of total cost, higher U.S. labor cost was an additional factor. All these factors in mind resulted in the gradual decline of the U.S. ferrochromium industry because foreign ferrochrome producers

could sell in the United States at prices below that which U.S. producers could sell and still earn a profit. The cost disadvantage of the U.S. producers widened in the last two years as the U.S. dollar appreciated against most currencies throughout the world so that in the past year South African producers, for example, have earned substantial profits selling ferrochromium in the United States at prices of 40 to 45 cents per pound at the same time that U.S. producers have stated they cannot compete at less than 50¢ per pound.

Allegheny Ludlum Steel Corporation has traditionally supported U.S. ferrochrome producers particularly Macalloy and its predecessor company, the Ferroalloy Division of Airco, Inc. We did this over a period of many years even though the domestic price of ferrochromium was as much as 10% higher than the foreign price. We did this in an effort to support the demestic ferrochrome industry even though domestic producers admit that they cannot compete in the long run for the reasons that I have pointed out. As late as the year before Macalloy went into bankruptcy, we supported them in their difficult cash bind by purchasing the ore and having Macalloy convert it to minimize their cash outlays. I believe that other specialty steel companies have supported his firm as well.

I should also point out that only Macalloy could be considered as even close to a technologically modern facility at this point and, in fact, is the only remaining ferrochrome smelter in the United States. The facilities which were producing ferrochromium are old, small, and technologically obsolescent. These furnaces are not competitive with large modern smelting furnaces even it the other disadvantages I have mentioned did not exist.

Now we are faced with the difficult problem. The ferroalloy industry has indicated clearly that a breakpoint price of at least 50¢ per pound of contained chromium in ferroalloy chromium is needed for the U.S. producers (Macalloy is the only existing producer) to be minimally profitable. The average current price that U.S. consumers are paying for imported ferrochromium varies between a low of 40¢ and a high of 45¢ thus far in 1985. An increase to a minimum of 50¢ per pound of ferrochromium would mean a monumental increase in cost to the specialty steel industry. In the case of Allegheny Ludlum alone, I estimate that with our consumption well in excess of 50,000,000 pounds per year of chromium contained in ferrochromium that our increased costs could exceed $4,000,000.

We certainly appreciate the past efforts of Senator Byrd in supporting the specialty steel industry. The specialty steel industry and particularly the flat rolled segment of the specialty steel industry has continued to be injured by imports as a result of the inadequacy of the President's decision in 1983. Imports in 1984 were at the highest level in history and we have seen only modest declines through the first three months of 1985. We compete with a wide range of companies many of which are government-owned such as the French which was the largest importer of our products into the United States in 1984. The two French nationalized companies lost a total of $800,000,000 in 1984. They have received subsidies of approximately $1,000,000,000 in total to carry them through 1985.

It is impossible for us to support any relief program which results in such a significant increase in cost to the specialty steel industry to support ferrochrome smelters in the United States, which by no stretch of the imagination, can ever hope to be competitive in the world market.

However, we have attempted to support the U.S. producer and for several months have been attempting to arrange the purchase of ferrochromium for Macalloy in an effort to support the domestic ferroalloy industry as yet unsuccessfully. On April 18th the president of Macalloy visited us and I specifically offered to consider taking 25% or more of the output of his second furnace as an indication of my support. I asked for his ideas with regard to price and quantities and suggested that he contact other major specialty steel users to determine their interest. As of May 22nd, Macalloy had made no proposal. This is strange in view of the fact that a second furnace smelter started production around April 20th. The production is apparently being stockpiled and has not been offered for sale.

I feel certain that other specialty steel producers will also be interested in supporting the domestic ferrochrome producer if the premium over current world prices is not too great. A price of 50¢ per pound or more, however, is unreasonable and cannot be supported nor accepted by the U.S. specialty steel industry.

It would be tragic if Congress in its efforts to provide help to the ferrochromium industry, took actions which had the result of greatly injuring the specialty steel industry, a competitive, cost effective, but struggling industry as a result of continuing subsidized and dumped imports. Furthermore, if we become less competitive, our consumption of ferrochrome will decline further reducing the demand for Macalloy products even more.

Finally, the largest producer in the world, South Africa, is aware that such legislation is being considered. They would welcome a breakpoint price of 50¢ per pound or higher because it would provide a huge windfall profit for them.

R.P. SIMMONS,
President and Chief Executive Officer.

WASHINGTON, DC, *June 28, 1985.*

JOSEPH K. DOWLEY, Esq.,
Chief Counsel, Committee on Ways and Means,
U.S. House of Representatives, Washington, DC.

DEAR MR. DOWLEY: We are counsel for Almet, Inc., a domestic importer of ferroalloys. Pursuant to the request for written comments dated May 16, 1985, the following comments on the Fair Trade in Ferroalloys Act (H.R. 976) are submitted on Almet's behalf.

We believe H.R. 976 to be a protectionist legislative proposal that wholly disregards the interests of the U.S. steel industry and the ultimate U.S. consuming public. The long-term effect of H.R. 976 will be drive exporters and importers out of the U.S. ferroalloy market. As a result, companies like Almet will be forced to cease as going concerns.

Moreover, the overall cost of doing business for the U.S. steel industry would be substantially increased should H.R. 976 be enacted. This can only hurt the ultimate consumer in the end.

The Bill in its present form would set an unfortunate precedent in protectionist legislation and would be inconsistent with international valuation principles accepted by the United States and embodied in the GATT Valuation Code. Alemt looks forward to giving full testimony on the economic impact of the proposal at the appropriate time.

Very truly yours,

ROSS & HARDIES
(By Stephen M. Creskoff).
Counsel for Almet, Inc.

LAW OFFICES
WALD, HARKRADER & ROSS

CHARLES C. ABELES
TOM K. ALLEN
JEREH D. AMES
LORETTA COLLINS ARGRETT
GEORGE A. AVERY
MARKHAM BALL
WILLIAM H. BARRINGER
JOAN ZELDES BERNSTEIN
DAVID R. BETZ
C. COLEMAN BIRD
RICHARD K. BROWN
THOMAS W. BRUNNER
DONALD T. BUCKLIN
JOHN L. BURKE, JR.

MICHAEL J. ALDUM*
GILBERT ARANZAS*
MARY DUFFY BECKER
MARK N. BRAWN
SUE M. BRODUM
KAREN S. BYRNE
MICHAEL R. CANNON
JEFFREY W. CARR
WILLIAM JOHN CLINTON
CATHERINE CURTISS
JOHN F. DALY
MARK T. DROOKS

*DALLAS OFFICE

ROBERT M. COHAN
PATRICK R. CORLISS**
ROYAL DANIEL, III
CHRISTOPHER K. DUNN
RICHARD A. FRANK
GREER R. GOLDMAN
LOUIS B. GOLDMAN**
DONALD H. GREEN
JOSEPH P. GRIFFIN***
RICHARD K. GROSS
GILBERT E. HARDY
NOEL HEMMENDINGER
LAURENCE I. HEWES, III
JOEL E. HOFFMAN

MARY T. TOGAN
MICHAEL EZRA FINE
MILDRAM FINK
LAURA A. FOGGAN
DONNA BROWN GROSSMAN
PAUL GUTERMANN
HARRY S. HARBIN
KENNETH G. JAFFE
SYDNEY J. KASE
MARILYN E. KERST
DANIEL L. KOFFSKY
PAMELA S. KROP

**NEW YORK OFFICE

STEPHEN B. KREL, JR.
MARK R. JOELSON
MARC E. LACKRITZ
ROBERT M. LICHTMAN
JEFFREY F. LISS
A. RICHARD METZGER, JR.
ANDREW N. MEYEROWITZ*
J. BRIAN MOLLOY
LEWIS M. POPPER
WM. WARFIELD ROSS
MARK SCHAFFNER
LEE M. SIMPSON*
ROBERT A. SKITOL
THOMAS H. TRUITT

ARTHUR J. LAFAVE, III
DANIEL H. MACCOBY
PETER KINGSLEY MOSES, JR.*
JAMES A. MEYERS
SHIRA D. MODELL
JAMES T. MONTGOMERY, JR.
LINDA M. OWENS*
WILLIAM L. POWERS
MEHANNEL S. PRESTON
LUCY F. REED
JANET M. ROBINS
SUSAN D. SANTELLO

***LONDON OFFICE

ROBERT L. WALD
KEITH S. WATSON
FRANK A. WELT
DAVID B. WEINBERG
WILLIAM R. WEISSMAN
JOHN A. WESTBERG***
GERALD B. WETLAUFER
JOEL S. WINNIK
STEVEN K. YABLONSKI
ANTHONY L. YOUNG
CHARLES A. ZIELINSKI

JANE SENDLER
WILLIAM E. SHIMER
JOSEPH J. SIMONS
WALTER J. SPAK
SANDRA L. SPALLETTA
STANLEY M. SPRACKER
DANIEL H. SQUIRE
BRUCE R. STEWART
MARK S. WARD
ANN ADAMS WEBSTER
JACQUELINE E. ZIMS

(NOT ADMITTED IN DC)

1300 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036-1697
(202) 828-1200
TELEX (RCA) 248567 (WHRR)

1101 SAN JACINTO TOWER
DALLAS, TEXAS 75201
(214) 754-0400
TELEX 730881 (WHRDALLAS)

345 MADISON AVENUE
NEW YORK, NEW YORK 10022
(212) 826-8300
TELEX 427567 (WHR)

24 UPPER BROOK STREET
LONDON, W1Y 2PD
TEL. 629 4078
TELEX (851) 886433 (WHRLON)

SELMA M. LEVINE (1904-1975)
THOMAS C. MATTHEWS (1931-1974)

SENIOR COUNSEL
CARLETON A. HARKRADER
THOMAS J. ROSS

OF COUNSEL
DOUGLAS M. COSILE
CHARLES H. GUSTAFSON
PETER O. KELLY
DON WALLACE, JR.

June 28, 1985

Chairman Gibbons
House Ways and Means
Subcommittee on Trade
1136 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Gibbons:

Pursuant to notice in Press Release No. 8 for the House Ways and Means Subcommittee on Trade issued May 16, 1985, we are hereby submitting for the record the attached position paper on HR 976 which has already been provided informally to the staff. It was prepared by the Brazilian Association of Ferroalloy Producers, and addresses itself to the impact of this legislation on questions of fair trade, national security and the economics of the American steel industry.

Sincerely yours,

Royal Daniel, III

Attachment

THE BRAZILIAN FERROALLOYS INDUSTRY AND UNITED STATES - BRAZIL TRADE

A Position Paper on S.262 and H.R. 976

The Brazilian Association of Ferroalloy Producers
(ABRAFE)

Summary.

Ferroalloys are necessary ingredients in the making of cast iron and steel. They are semi-manufactured raw materials that provide desired properties in all steels, particularly specialty steels. The most common ones are ferrochromium, ferromanganese and ferrosilicon. They are produced by reducing metal-bearing ores in a submerged arc electric furnace at high temperatures.

To produce ferroalloys, the United States must import all of the necessary ores, with the exception only of quartz, the basic ore for ferrosilicon, which is available in this country.

Imported ferroalloys come from Norway, South Africa, Brazil and from some European countries. The ores are exported from several countries in Africa (Gabon, Zimbabwe and South Africa) and from the Soviet Union. A limited quantity of exportable ores remains in Brazil as well.

During the past two decades, the United States has become uncompetitive with the rest of the world because of the high price of energy, the transport costs involved in importing virtually all of the ores, and labor costs. The industry has sought special protection from import competition, mostly under the rubric of protecting the national security.

Senator Byrd has introduced S.262, which would impose a normal duty evaluation method on ferroalloys patterned after an antidumping analysis and based upon a trigger price mechanism. Representative Miller has introduced an identical measure in the House (HR. 976).

If passed, the provision would create a complicated and discriminatory barrier to trade. Under the guise of protecting the national security, the law seeks to remedy supposed unfair trade practices without following the accepted procedures in such cases.

With respect to Brazil, the premises of the bill are not correct. Brazil does not engage in unfair trade in ferroalloys. Export subsidies have been phased out. Export prices are not lower than the home market prices in Brazil. Brazil's competitiveness comes not from subsidies or dumping. It is the result of Brazil's real comparative advantage in ferroalloys. Brazil enjoys plentiful and cheap hydroelectric power, abundant labor, and large supplies of raw materials and inputs close to production sites.

The premise of the bill concerning the national security is also incorrect. In the event of mobilization, the dependence of the United States on imported ores from distant and often troubled lands would make it more vulnerable to industrial disruption rather than less so. Countries such as the Soviet Union and those in Africa (Gabon, Zimbabwe and South Africa) are not reliable sources of ores under many different scenarios. Furthermore, the high energy cost of transforming these ores, especially ferrosilicon, would be borne at the very time when energy would be most precious. On the other hand, Brazil stands as a reliable and proximate ally with abundant and inexpensive supplies of the necessary industrial input.

Finally, the bill does not recognize the precarious state of the U.S. steel industry and the considerable effort of Congress to enhance its competitiveness through trade protection. This bill would force the steel industry to pay higher prices for ferroalloys, since the duty would impose on the buyer the cost structure of the United States ferroalloys industry, and not the lower costs that prevail in world markets. The competitiveness of the U.S. steel industry would be degraded as a result. Congress would be legislating higher costs to the steel industry at the very time that it is struggling to re-establish itself in its traditional markets.

In short, the Byrd bill will be costly to the steel industry and potentially harmful to the national security. It seeks to remedy unfair trade practices that do not exist, and adopts methods inconsistent with the existing trade laws. It is an unjustifiable non-tariff barrier to international trade.

June 19, 1985 ABRAFE Position Paper

I. Brazilian Ferroalloys are Fairly Traded.

S.262 would impose a complicated reference price mechanism on the process of evaluating imported ferroalloys for duty purposes. The duty would be the difference between the international transaction price of the merchandise and a home market price (presumably higher). As such, the bill would impose a miniature antidumping investigation on the Customs Service as part of normal clearance procedures.

There is no justification for such a complicated intervention at American ports. First, the remedy -- if it is truly an antidumping remedy -- should follow the procedures in the Antidumping Act and in the antidumping rules of the GATT. If the procedure is truly an evaluation procedure, then the normal provisions of classification and appraisement rules should be followed. The GATT Customs Classification Code, to which the United States is a signatory, is not consistent with this bill.

Even if no duties were imposed as a result of the effective establishment of a minimum import price by means of this legislation, the impact on Brazilian exports would be negative. The inevitable delays and uncertainties in customs clearance would discourage importers. Such a trade barrier is not justifiable on the grounds that there is unfair trade in this product. For its part, Brazil is not subsidizing its exports of ferroalloys, and Brazilian exporters are not practicing dumping.

Subsidies. With respect to subsidies, the facts are as follows: The IPI Credit Premium, which accounted for nearly 90% of the countervailing duties against Brazil in the past, has been revoked. The following phase-out schedule was established many months ago. Under Portaria 176/84 of the Brazilian Ministry of Finance, the last stages of the phase-out were announced and implemented. The phase-out has been the subject of direct verification by the Department of Commerce in a number of pending countervailing duty cases:

Phase-Out Schedule of the IPI Credit-Premium

From	To	Rate
December 7, 1979	March 31, 1981	zero
April 1, 1981	March 30, 1982	15%
March 31, 1982	June 29, 1982	14%
June 30, 1982	September 29, 1982	12.5%
September 30, 1982	October 31, 1984	11%
November 1, 1984	November 30, 1984	9%
December 1, 1984	December 31, 1984	7%
January 1, 1985	January 31, 1985	5%
February 1, 1985	February 28, 1985	4%
March 1, 1985	March 31, 1985	3%
April 1, 1985	April 30, 1985	2%
May 1, 1985	present	zero

The only other significant export subsidy, preferential interest rates on credit for export production, has also been severely curtailed as part of the overall austerity program Brazil has been obliged to adopt in connection with the management of its debt. Brazilian exporters now pay local interest rates that are more than twice the U.S. prime rate, after adjustments for inflation. Brazilian export credits are available only at rates that equal or exceed the preferential rates the United States grants to exports through the Eximbank.

We understand that the United States Government is about to send a delegation to Brazil in order to confirm directly the veracity of the recent changes in Brazilian trade policy.

Dumping. Of more direct relevance to S.262 is the question of Brazilian prices when compared with prices in the United States. The proponents of S.262 implicitly argue that Brazil is practicing dumping. This is not correct. The following table, taken from published sources in both countries, clearly demonstrates that Brazilian home market prices are often substantially below American prices. There is no reason for Brazilian exporters to price their export product below the home market price. Without engaging in dumping the Brazilian industry enjoys a cost advantage of, for example, 52% in the case of ferromanganese.

Comparison of Producers' List Prices
Brazil and the United States
(Prices in US$/MT)

	1983			1984		
Product	Brazil	USA	Diff	Brazil	USA	Diff
Fe Mn	406.80	503.90	24%	318.15	482.30	52%
Fe Si Mn	442.35	493.52	12%	352.80	490.50	39%
Fe Si 75%	584.40	755.00	29%	581.90	730.60	26%
Si Metal	1141.60	1267.10	11%	1008.70	1330.65	32%
Fe Cr	.38	.40	5%	.31	.41	32%

(Source: CIP Prices in Brazil; Cru Metal Monitor/Metals Week in U.S.)

The fact is that the ferroalloys industry in Brazil is efficient and low-cost. This permits profitability at price levels that would only generate losses in the United States. In the United States, there has been virtually no innovation for two decades, whereas most of the Brazilian industry has been built in the last few years. The equipment is modern. Added to this is the

proximity of the industry to its ores, the abundant supply of vegetable carbon (charcoal) as a reducing agent, the availability of semi-skilled labor and the cheap hydro-electric energy.

Another contributing factor to the competitive advantage of the Brazilian ferroalloys industry is the lower cost of installing new capacity in Brazil. The average price per KVA in the United States is approximately $1,200. In Brazil it is about one-third that amount, or $400/KVA.

Data compiled from published balance statements and industry reports show the following financial data concerning ferroalloy producers in Brazil:

FINANCIAL PERFORMANCE OF BRAZILIAN FERROALLOYS INDUSTRY

	Year	Net Receipts	Net Profit	Net Worth	Profit % Sales	Profit % Assets
Manganese	1981	109.30	3.80	74.60	3%	5%
	1982	125.20	18.40	90.00	15%	20%
	1983	108.30	21.30	74.40	20%	29%
Silicon	1981	111.60	10.50	77.50	9%	14%
	1982	120.00	13.40	94.90	11%	14%
	1983	97.70	24.60	84.30	25%	29%
Chromium	1981	60.50	6.60	40.40	11%	16%
	1982	62.10	11.30	41.10	18%	27%
	1983	46.60	14.90	37.30	32%	40%

(Source: ABRAFE data)

Note that the numbers above do not challenge in any respect the assertion that the U.S. industry is efficient, for that is a subjective claim. The figures simply show that the Brazilian industry is also efficient, as that term is employed, and also that its costs are substantially below those of the U.S. industry, in almost every respect.

Currency Fluctuations. It is important to emphasize that the Brazilian industry is not benefitting in its trade by the rise in the value of the dollar. The contrary is true. Brazilian exports are denominated in dollars. Thus, Brazil loses competitiveness as against other currencies in much the same way as U.S. exporters do. Brazil is not a beneficiary of the strong dollar -- if anything, it is a victim of it. It can not be said with respect to Brazil that imports into the United States have been caused by exchange fluctuations. The large U.S. trade deficit -- and the lower import prices in ferroalloys -- arise in part from

the cheaper Rand, Norwegian Krone, and other European currencies. In inflation-adjusted terms, the Cruzeiro has actually risen in value relative to the dollar since the last maxi-devaluation on February 19, 1983.

II. Brazilian Ferroalloys and the National Security.

If S.262 is analyzed, not as an unfair trade statute, but rather as an attempt to enhance the national security of the United States, it can be seen that trade protection will be counter-productive. There are three basic realities that keep ferroalloys from being classified as a good candidate for trade restrictions.

Dependence on Foreign Ores. The United States imports virtually all of its requirements for ferromanganese and ferrochromium. Supplying countries are very distant from the United States and in areas of the world that are subject to geopolitical instability. For example, of the major suppliers, the Soviet Union, Zimbabwe and South Africa all present different, though obvious threats. (See attached tables).

Brazil itself is not a potential supplier of ores to the United States for technical reasons. The furnaces in operation in the United States are old and are designed to use only certain ores with narrowly defined specifications. The ores that are appropriate for use in American furnaces are no longer to be found in Brazil. (The Serra do Navio ores, which did meet these requirements, are almost exhausted). American ore supply comes mostly from Africa. Even if the U.S. technology were adapted to use the somewhat poorer ores available in Brazil, trade would be economically infeasible. On the average, around three tons of ore will render one ton of ferroalloy. With poorer ores, the ratio can be much higher. Since the ores are of low value in relation to their weight, freight costs play an important role in the break-even calculation. Freight costs alone would prevent Brazil from being able to export sufficient quantities to the United States in order to reduce the raw material economically into ferroalloys.

Thus, if the U.S. industry were protected in order to be able to function during mobilization, the dependence of the ferroalloy industry on raw materials from abroad would increase. The tonnage requirements for shipping would be three times greater, and the distances to be travelled would also increase.

On the other hand, the Brazilian industry has developed the technology to render quality ferroalloys from its non-exportable ores. By importing only one ton of product from Brazil instead of importing three tons of ore from Russia or South

Africa, the tonnage required for defense needs would be cut by one-third and the source of supply would be less remote from the United States and more secure.

The national security requirements must be analyzed from the point of view of the needs of the user -- the steel industry -- and not simply in terms of the competitive position of one sector. During times of mobilization, the critical question is whether the steel industry can continue to function. The source of the ferroalloys is a subordinate question. The steel industry can be more readily guaranteed of strategic supplies if the ferroalloys were stockpiled in sufficient volume. There really is no other solution for a product that simply is not found among the captive natural resources of the United States.

Energy Inputs. Even in the case where the basic ores are found in the United States, for example, silicon ores (quartz), a question arises concerning energy consumption. In Brazil, the ore represents approximately 4% of the value of the finished product, whereas between 40% and 50% is reflected in the energy contained in the finished product. Much of the energy consumed in the manufacture of silicon metal and ferrosilicon usually comes from non-renewable sources in the United States, such as imported petroleum or coal. During mobilization, energy will be scarce. Ten percent of all electrical energy is generated by conversion of petroleum, a portion of which is imported. Furthermore the industrial requirements for energy at that time will be much greater than they are now. During mobilization, energy will have to be used in sectors where is generates a much higher value-added, such as the electronics and defense industries. At the same time, the importation of ferroalloys will be one option still open to the mobilization planners.

The example of Japan is instructive in this regard. Japan has gradually phased out its ferroalloys industry because it perceived the inevitability of dependence on foreign sources for the raw materials and the need to conserve energy during times of crisis. Because the ferroalloy plants were owned by the end users -- the steel mills themselves -- it was possible for the Japanese government to organize a gradual shift from production to importation. And the mills themselves participated because their own long run interests lay in finding reliable and competitive sources of supply rather than spending local resources more intensely in producing it in Japan.

In spite of the well-known reluctance of the Japanese to stop exporting and to become an importing country, Japan quickly moved from being a large net exporter of ferroalloys to a large net importer. It deactivated 70% of its industry. The decision was made because it was consistent both with the economic interests of the steel industry and with the security needs of the country, both in the short run and in the long term. In our opinion, the United States will soon face this same reality.

Foreign Control of U.S. Production. Over the last few years the U.S. ferroalloy industry has been gradually sold to foreign interests so that now over 60% of all American capacity is owned by South Africans, Norwegians and Germans. As in the case of Japan, American capital has seen fit to divest itself of an industry that encounters increasing problems of competitiveness. The purchasers have been traditional exporters to the United States who, for various reasons find it convenient to supplement their sales to the United States through production here. In many cases the sale of the ores could be a captive sale, made between related parties. By regulating the transfer price of the ores, these firms can effectively remit profits from the United States without paying taxes. At the same time, these firms have sought to raise protectionist barriers in order to guarantee a market to themselves at the expense of free competition, with obvious negative impacts on the United States steel industry. This trend helps to explain why there have been continuing pressures in the United States to defend the national security by increasing the tonnage of imports -- through ores -- rather than decrease the degree of dependence of the United States on international shipping.

III. Impact of Protection on Steel Costs.

The increase of trade protection for locally-processed ferroalloys will undoubtedly increase prices. This is in fact an implicit objective of the proposed legislation. Prices will rise either because the trade barrier will force importers to cover increased uncertainties and risks or because the restrictions themselves will generate additional direct costs in the form of duties.

Each increase in the cost of ferroalloys will result in an equal, if not greater increase in the cost of steel. This is because the steel industry can not be expected to absorb this cost increase out of profits. The lack of profitability of the steel sector was the principal reason for the trade protection granted by the government in the last two years. It would indeed be ironic for the Congress to damage deliberately the very sector that was the beneficiary of trade policy.

A secondary impact of the additional cost of U.S. steel will be the increase in competitive pressure from imported steel, together with an expected decline in the overall consumption of steel as a result of the higher prices.

Conclusion.

If the purpose of the proposed legislation is to remedy unfair trade practices, the measure is unnecessary. The troubles of the U.S. industry derive from fundamental, structural problems with uncompetitiveness. If the proposed legislation is designed to reduce U.S. dependence on foreign sources of supply, it will achieve the opposite result. More tonnage will be required from abroad and from more distant locations. If the pupose of the bill is to help the basic steel industry of the United States, it will actually raise costs, decrease competitiveness and generate an increase in inflation. In our opinion, we believe that the policy expressed in S.262 is not in the best interests of the American economy.

(Attachments to this paper have been retained in the committee files)

THE FERROALLOYS ASSOCIATION,
Washington, DC, June 28, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
U.S. House of Representatives, Washington, DC.

DEAR MR. DOWLEY: I write to support H.R. 976, the Fair Trade in Ferroalloys Act. I am President of the Ferroalloys Association, the trade association of the U.S producers of ferroalloys. I submit this statement on behalf of the Association and its members identified on the last sheet attached to the statement.

America's industrial base and national security require a secure supply of ferroalloys of chrome, manganese and silicon. These products are the underpinning of our modern, technological economy. They are essential to produce steel, specialty and stainless steels, superalloys, iron and aluminum, as well as silicon chips. If we lacked ferroalloys, it would be impossible to build modern refineries, chemical plants, hospitals, airplanes, missiles, food processing facilities or power plants. Without a strong domestic ferroalloy industry, the nation will be dangerously vulnerable to disruptions in our supply of the indispensable materials it produces.

Because of intense pressure from low-priced imports, the American ferroalloy industry is in a state of crisis. It has suffered massive losses in recent years; and for nearly a decade, it has had no year in which it earned more than marginal profits (Chart 1). Its capacity has dwindled to just over half of what it was in 1978 (Chart 2). The industry can now supply only half of U.S. needs in the surge conditions of an emergency; and, without prompt import relief, capacity will soon diminish even further. (Chart 6 shows, in capsule form, some basic data about the industry.)

The industry cannot remedy this situation by itself. It operates at the state of the art, being as technologically modern and efficient as any in the world. Rather, its problem is imports, whose market share has risen steadily over many years, to some 60% of the U.S. market (Chart 3). The principal reason for imports' success is their artificially depressed non-free-market prices, fueled by their home governments' export-promotion policies (subsidies, protected home markets, state ownership, etc.) and by a willingness to buy market share with little regard for profit. The bar graphs from Chart 3 clearly shows that import penetration has grown steadily regardless of economic conditions or dollar value.

The only way to preserve what remains of this essential industry is to provide broad-based import relief; and, for this industry, that requires legislation. The industry has pursued remedies under existing U.S. trade laws, but they have not stemmed the tide. One reason is that the industry's import crisis is long-term and systemic, where traditional trade remedies focus on the short-term and the particular. Furthermore, imports come from many sources (Charts 4 and 5); and this small industry cannot afford to bring a multiplicity of trade cases.

The Fair Trade in Ferroalloys Act (H.R. 976) would preserve the industry by establishing a system of "break-point" duties for ferroalloys. Under the bill, the Department of Commerce would establish "break-point" values for ferroalloys, based upon the costs of efficient U.S. producers; and, imports entering the U.S. below the break-point values would pay a penalty duty to bring their duty-declared value up to that level.

The bill eliminates existing U.S. *ad valorem* duties on ferroalloys. The point is to remove all barriers to free trade other than the break-point mechanism—designed to approximate fair, free market prices. The bill does not present a foreign policy problem with respect to our major trading partners, in part because Japan and the European Community have taken similar steps to protect their ferroalloy production capacity. (Charts 7 and 8 show that these entities have kept their domestic ferroalloy production and duties at levels far above those of our nation.) Nor would the bill impose undue costs on the economy, only causing increases in ferroalloy prices amounting to less than ½ of 1 percent of the sales of the direct consuming industries.

At the impetus of Senator Byrd, the Senate unanimously added such legislation to the omnibus trade ace in late 1984, but it was deleted in conference. The enactment of this bill now is essential to preserve this industry, and thereby to protect the national interest.

No modern industrial nation can afford to lack a viable ferroalloy industry. The American ferralloy industry provides a critical foundation for the industrial base and national defense of the United States, but that industry can only survive against the non-free-market pricing of other nations if it is allowed to compete on a level playing field. Without legislation, to impose that level playing field on importers, the condition of this essential industry will continue to worsen, its capacity will continue to dwindle and it will soon cease to be a major factor in supplying this

country with these essential products. In short, unless H.R. 976 is enacted, our nation will lose a critically important industry and needlessly increase its dependence on foreign sources for these strategic and critical materials. H.R. 976 will provide for fair and open competition that abides by the free market rules. It will thereby preserve this essential industry, and we urge its enactment.

Respectfully submitted,

GEORGE A. WATSON, *President.*

(Attachments to this letter have been retained in the committee files.)

PICKANDS MATHER & CO.,
Cleveland, OH, June 26, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
U.S. House of Representatives, Washington, DC.

DEAR MR. DOWLEY: This letter is written in support of H.R. 976 and on behalf of Globe Metallurgical Inc., which is one of the few remaining survivors in the domestic ferroalloy business. This is an industry whose importance to the United States is far greater than its relative numbers either with respect to companies, employees or annual sales volumes. As small as it is, it, nevertheless, produces the very metals upon which modern, high technology and advanced societies must depend. Jet engines, nuclear plants and weapons, most of our space hardware and many other high technology items are reliant upon the materials we produce.

We are suffering today, not because of technological obsolescence, unproductive labor or inefficiencies, rather we are suffering because of the actions of foreign governments, which encourage and also protect their own ferroalloy industries. Such protections come not only in the form of subsidies, but by controlling the imports of these products into their own markets. These facts must be recognized and addressed if our small, but vital, industry is to continue to produce the materials so necessary for our nation's defense and the welfare of the entire country.

H.R. 976 addresses this critical problem, which can be corrected without having any significant impact on the economies of our international trading partners or the general concepts of free trade. We urge the Committee's support for this legislation that is so critical to the survival of the domestic ferroalloy industry, but most importantly is so critical to the best interests of our nation.

Yours very truly,

GLOBE METALLURGICAL INC.
(By Thomas J. Manthey, Vice President, Public Affairs, Pickands Mather & Co., Manager).

INTERNATIONAL MINERALS & CHEMICAL CORP.,
New York, NY, June 21, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, House Ways and Means Committee, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN GIBBONS: I am writing you to solicit your support for a bill being considered in the Congress—the Fair Trade in Ferroalloys Act (S262 and HR976), introduced in the Senate by Senator Byrd and in the House by Congressman Clarence Miller.

International Minerals & Chemical Corporation (IMC), with headquarters in Northbrook, Illinois, and phosphate mines in Florida, owns and operates two ferrosilicon plants as part of its TAC Alloys Division—One at Kimball, Tennessee, and another at Bridgeport, Alabama. These plants employ 187 people and generate a local payroll of $6.3 million per year. Operations at both of these plants have been severely impaired by imports of ferrosilicon.

Without some form of protection from these unfair imports as provided for in the proposed legislation, the long term viability of these plants is questionable and the Company regrettably may have to proceed with a permanent closure of one or both plants at some future date in order to reduce the losses.

Since 1978, about 40% of the U.S. ferroalloys capacity has been closed. Plants such as IMC's have modern, cost efficient technology and represent the last remaining capacity capable of producing ferroalloys critical for the manufacture of steel and metal castings.

In the name of IMC, I am asking for your consideration when this bill comes before the Trade Subcommittee, since we feel that this legislation will assist our industry in maintaining its viability.

Sincerely,

I. DAVID PALEY,
President, Industry Group.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 20, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

DEAR MR. SAM: Pursuant to the Subcommittee on Trade's request for written comments on a number of tariff and trade bills, I am taking this opportunity to provide the subcommittee with my views on H.R. 976, the Fair Trade in Ferroalloys Act.

The only way to prevent the loss of what remains of the domestic ferroalloy industry, which now has in import penetration of 60 percent, and to protect our national security interests is to provide the industry with some form of systematic import relief targeted at the unfairly low pricing of imports. The current trade laws simply are not meeting the needs of this vital industry. The most effective and least market intrusive method to stop the industry's slide into oblivion is the "break-point" duty which the Fair Trade in Ferroalloys Act would provide.

The American ferroalloy industry is recognized as one of the most modern, efficient, and technologically innovative in the world, but it cannot compete against an avalanche of unfair, often subsidized, imports. In 1968 ferroalloy imports made up about 16 percent of the domestic market; by 1977 it had risen to about 40 percent; and today import penetration stands at 60 percent. Ferroalloys are imported from 35 different countries, with the top exporters being the Republic of South Africa (accounting for 30% of imports), France, Brazil, Norway, and Yugoslavia. Even the Soviet bloc countries such as the USSR, Poland, and Romania are exporting ferroalloys to this country.

What has the ferroalloy industry done to stem the tide of these unfair imports? The ferroalloy industry has pursued vigorously a number of traditional routes to import relief such as actions under the escape clause and anti-dumping laws. Despite some victories, these actions have not reversed the current loss of producing capacity (now at only one-half of 1978's capacity), because they have been piecemeal approaches to a highly integrated problem. While these remedies are particular and focused on short periods of time, the ferroalloy industry's crisis results from imports from several countries whose low prices are caused by varied factors. In addition to the obvious administrative and legal limitations of these laws, they are also expensive to pursue. The ferroalloy industry has limited resources with sales of under a billion dollars a year, major losses over the past few years, and a workforce of just 3,800 which is less than half of the 1979 figure. The industry's problems simply will not be solved by the application of these trade laws.

The industry has also used Section 232 of the Trade Act of 1962 which provides relief based on national security criteria. This case was filed in 1981 and it took until 1984 for a final decision to be made by the Administration. Despite an obvious clear connection between a viable domestic ferroalloy industry and the protection of our national security interests, this petition was surprisingly denied.

The only way to protect the nation's powerful security interest in preserving this essential industry is to provide it with some form of systematic import relief targeted at the low pricing of imports. The most effective and least market-intrusive form of relief is the "break-point" duty which the Fair Trade in Ferroalloys Act would provide.

The operation of the break-point duty is simple. If imports enter the U.S. with a duty-declared value below the product's "break point" or "fair price," they pay a duty equal to the difference. The fair price will be determined by the Secretary of Commerce by taking into account the production costs of U.S. producers with efficient facilities and operations. This calculation can readily be made from an objective model of production inputs (raw materials, power, labor, indirect costs, etc.) to determine a fair amount that competitive producers should charge. One important feature of the bill is that it does not just add break-point duties, but substitutes them for *ad valorem* duties on ferroalloy imports. By eliminating these current

duties, only those ferroalloy imports which are priced below the break point will pay any duty at all.

By focusing on the low import prices that have caused the ferroalloy industry's life-threatening crisis, the break-point duty offers the minimum intrusion possible to achieve effective relief. It will neither require the market allocations and administrative difficulties of quotas nor force all imports to pay added duties regardless of how fairly they may be priced, as would a tariff increase. Instead, by applying only to imports below a fair price, the remedy permits all competitors—U.S. producers and imports—to compete vigorously within the parameters of the fair price. As a result, prices will closely approximate the level that would be obtained if foreign producers abided by the rules of the free trade and free market system. I emphasize that break points will not protect any inefficient domestic producers. If an American producer is less efficient than its competitors and thus its costs exceed the fair price, the producer will not be able to compete effectively at the break-point level. I might add that this legislation will have a very minimal impact on the U.S. economy, because the resulting increase in ferroalloy prices will amount to only a fraction of one percent of the sales of user industries.

The break-point duty is nothing new to the world of ferroalloy market. The European Community imposes similar restrictions on major ferroalloy imports. Moreover, this form of relief was used in this country from 1978 to 1982 under the escape clause for high carbon ferrochrome. The ferrochrome relief worked until inflation eroded the meaning of the break point; but my bill provides protection against the effect of inflation by having the break point recalculated once per year.

This bill is essential to saving what is left of the ferroalloy industry and protecting our national security needs, because without major import relief, this country will lose the ability to produce ferroalloys and will be unable to respond in a time of national emergency. The industry has shrunk from 29 to 17 plants and is currently operating at just 60 percent of that reduced capacity. The trend of increasing ferroalloy imports has continued into 1985, and I foresee no change in this situation. Only a strong domestic ferroalloy industry can prevent our dependence on unreliable foreign imports, decrease the need for extremely expensive stockpiles, and reduce the present threat to our national security. I, therefore, urge the Subcommittee on Trade to give favorable consideration to H.R. 976.

I appreciate your review of this matter, and I will be pleased to assist you in any way during your consideration of this legislation.

Sincerely,

CLARENCE E. MILLER,
Member of Congress.

SECTION 2—PROHIBITION ON IMPORTS FROM AND EXPORTS TO SOUTH AFRICA

Imports

Gold, platinum group metals, and nickel.—South Africa has the largest world reserves of gold and the platinum group metals and is the largest world supplier. It is also one of the important world suppliers for nickel. Section 2 of the proposed bill would largely affect the platinum group metals.

Although imports equal about 20 percent of annual U.S. gold consumption, South Africa is not a major supplier of gold to the United States. Roughly half of U.S. gold imports come from Canada, with another third coming from Uruguay, England, Switzerland, and Chile. South Africa has more than half of the world's gold reserves.

The United States imports approximately 90 percent of its annual consumption of platinum group metals. The platinum group metals are used primarily by the automible industry (in emission control catalysts), electrical and electronic industry (in low voltage electrical contacts), petroleum refining industry (for catalytic reforming), ceramics and glass industry (for making glass fibers), chemicals industry (for catalytic purposes), dental and medical industries, and jewelry and decorative industry. They are also on the U.S. critical and strategic material list and are stockpiled by the U.S. Government for defense needs. South Africa is the major supplier of the platinum group metals to the United States, traditionally accounting for about one-half of U.S. imports. Table 1 shows U.S. imports of the platinum group metals during 1980–84. South Africa accounts for approximately two-thirds of the world's platinum group metal reserves. The second largest world reserves are in Russia. There is no competitive substitute for the platinum group melals used in the automotive, chemical, and petroleum industry sectors. Potential substitutes are available to the electrical/electronic and dental/medical industries.

The United States imports approximately 75 percent of its annual consumption of nickel. Nickel is on the U.S. critical and strategic material list and is stockpiled by the U.S. Government for defense needs. South Africa is a supplier of nickel to the United States, but its significance as a supplier has diminished over the past years. Canada supplies approximately 40 percent of U.S. nickel imports, with another 40 percent coming from Australia, Norway, Botswana, and West Germany. Table 2 shows U.S. imports of nickel during 1980–84. Although South Africa is an important world supplier of nickel, the three largest suppliers, which together account for roughly one-half of the world's reserves, are Cuba, New Caledonia, and Canada.

Chromium and manganese.—South Africa is the principal U.S. source for chromium and manganese, which are metals used primarily in the production of iron and steel. Their importance is reflected in the fact that both metals are on the U.S. critical and strategic material list, and they are stockpiled by the U.S. Government. Chromium is used in the manfacture of stainless and specialty steels, superalloys, alloy steels, and tool steels. Manganese is used in the production of all carbon and alloy steel products. There are no known commercially economic substitutes for these products in steelmaking.

Since the United States has no commercial production of chrome or manganese ore, it relies exlcusively on imported ores or their processed products (i.e., ferroalloys) to supply its needs. South Africa has been the principal foreign source of chromium products (i.e., chrome ore and ferrochromium), accounting for 64 percent of U.S. imports in 1984, followed by Zimbabwe (9 percent), Turkey (7 percent) and Yugoslavia (5 percent) (table 3). In 1984, South Africa accounted for 18 percent of total U.S. manganese product imports (i.e. manganese ore and ferromanganese), followed by France (13 percent), Brazil (11 percent) and Gabon (12 percent) (table 4).

South Africa has the world's largest proven resources of both materials and is second to the U.S.S.R. in terms of production (tables 5 and 6).

Titanium.—In 1984, the United States imported approximately 65 percent of domestically consumed titanium ore and metal-bearing materials. Titanium is used primarily in jet engines, airframes, and space and missile applications. Titanium is on the U.S. critical and strategic material list and is stockpiled by the U.S. Government for defense needs. During 1980–84 South Africa accounted for approximately 8 percent of U.S. imports (table 7). South Africa contains approximately 14 percent of the world's titanium ore and metal-bearing materials reserves. There are essentially no substitutes for titanium in certain critical military and aerospace applications.

Gemstone diamonds.—South Africa has the largest free world reserves of gemstone diamonds, and is particularly noted for the larger gems that are used in jewelry. The largest producer of rough gem diamonds is the U.S.S.R. No gem diamonds are commercially mined in the United States. South Africa is the principal supplier to the United States of rough gemstone diamonds, accounting directly for 66 percent of the total imported weight (794,000 carats, valued at over $258 million) in 1984 (table 8). It should be noted that large quantities of rough South African gemstone diamonds show up in U.S. import statistics from other non-producing countries such as Belgium, Israel, and England. There are no substitutes for gemstone diamonds.

Exports

Fine earthenware food utensils.—South Africa emerged as the second largest market for U.S. exports of fine earthenware food utensils in 1984, accounting for 20 percent (129,000 dozen pieces, valued at $511,000) of total exports of this product (table 9). Canada was the principal export market, accounting for nearly 50 percent of exports in 1984.

Vitreous china food utensils.—South Africa was the fifth largest market (9 percent of total product exports by quantity) and the third largest (8 percent by value) for U.S. exports of vitreous china food utensils amounting to 215,000 dozen pieces ($1.6 million) in 1984 (table 10). Other major export markets were the United Kingdom, Australia, and Canada.

Table, kitchen, art, and novelty products.—South Africa, the third largest market, accounted for 6 percent ($4.2 million) of total U.S. exports of these products in 1984 (table 11). The majority of these exports were of glass tableware, cookware, and kitchenware (not tumblers or stemware). Canada and Japan were the two leading export markets in 1984.

SECTION 4—PROHIBITION ON IMPORTATION OF KRUGERRANDS

South Africa is the major source for U.S. imports of metal coins (gold and silver coins primarily for investors), and most of these imports are believed to be krugerrands. South Africa usually accounts for one-third to one-half of the U.S. imports of metal coins. Table 12 shows U.S. imports of metal coins during 1980–84. The next largest competitive sources of U.S. metal coin imports are Canada (primairly gold coins) and Mexico (primarily silver coins).

Table 1.-- Platinum group metals

U.S. IMPORTS FOR CONSUMPTION BY PRINCIPAL SOURCES

Source	1980	1981	1982	1983	1984	
					Year to date	December
Quantity (1,000 troy ounces)						
Rep Saf	1,896	1,609	1,176	1,213	1,877	112
U King	504	302	319	636	758	33
USSR	377	359	405	430	528	32
Belgium	64	99	81	181	200	6
FR Germ	53	19	31	75	147	5
Canada	61	33	14	65	152	6
Italy	15	3	26	54	59	1
Switzld	30	37	35	61	88	1
Nethlds	59	39	26	35	66	0
Norway	16	29	23	13	22	0
All Other	311	85	18	32	51	5
Total Imports	3,385	2,614	2,154	2,795	3,949	200
Value (1,000 dollars)						
Rep Saf	674,482	537,039	352,277	369,204	587,752	37,074
U King	197,923	90,174	68,596	161,580	193,546	9,893
USSR	89,622	50,327	37,733	57,747	85,344	5,011
Belgium	16,326	15,559	13,818	34,973	41,651	1,290
FR Germ	21,908	6,985	6,597	17,682	38,742	863
Canada	26,953	6,277	2,970	17,610	37,265	871
Italy	6,135	1,524	6,854	19,507	20,584	448
Switzld	18,862	12,460	8,570	13,607	19,156	75
Nethlds	16,484	6,652	3,550	4,466	12,244	0
Norway	6,653	8,223	4,671	1,814	6,007	0
All Other	58,378	7,188	6,269	9,938	15,246	1,072
Total Imports	1,185,716	742,408	511,984	707,227	1,056,236	55,798
Unit value (per troy ounce)						
Rep Saf	355.74	333.75	299.61	304.32	313.07	331.64
U King	392.86	298.78	215.00	254.10	255.17	278.05
USSR	237.88	140.81	93.16	134.25	161.62	156.74
Belgium	256.75	156.53	171.21	193.20	207.91	199.70
FR Germ	415.91	369.92	213.47	234.54	263.31	185.81
Canada	438.83	188.51	209.86	271.25	245.63	151.18
Italy	395.95	506.11	264.81	360.34	350.13	373.33
Switzld	637.15	334.57	242.68	224.44	217.68	150.00
Nethlds	277.70	178.49	135.52	128.52	185.76	.00
Norway	426.92	284.61	205.21	143.02	269.45	.00
All Other	97.58	85.09	339.81	278.77	275.97	218.87
Average	326.61	283.96	237.63	253.01	267.50	279.09

U.S. IMPORTS FOR CONSUMPTION BY PRINCIPAL SOURCES

Table 2.--Nickel ore and metal

Source	1980	1981	1982	1983	1984	
					Year to date	December
Quantity (1,000 pounds)						
Canada	147,679	152,499	106,981	109,796	145,249	13,495
Austral	37,622	45,257	41,881	47,605	49,542	6,727
Norway	42,174	44,665	26,486	26,037	38,041	97
Botswan	31,216	49,250	28,144	32,950	42,797	2,827
FR Germ	7,487	5,527	8,309	11,637	12,516	912
France	4,423	3,261	3,805	3,443	7,662	73
Rep Saf	22,688	27,679	15,101	9,880	8,893	618
Finland	8,523	6,243	6,636	6,734	8,143	80
Phil R	27,059	23,405	8,062	6,213	9,593	6
U King	4,389	4,797	5,082	7,255	4,983	183
All Other	23,832	25,846	13,436	27,381	13,567	716
Total Imports	357,091	388,427	262,523	288,931	340,986	25,727
Value (1,000 dollars)						
Canada	453,715	454,379	298,011	282,092	340,557	31,973
Austral	108,980	132,724	95,824	83,565	95,436	15,092
Norway	140,427	152,979	77,779	54,627	85,977	216
Botswan	86,978	131,384	49,064	41,441	55,119	5,175
FR Germ	30,552	23,787	30,629	33,451	33,420	3,685
France	15,993	10,282	14,429	7,867	19,904	202
Rep Saf	64,997	75,237	33,842	20,228	18,713	1,346
Finland	25,536	18,853	17,029	13,151	18,367	182
Phil R	72,736	58,460	19,164	11,400	16,197	0
U King	20,271	19,625	10,761	20,724	14,974	685
All Other	48,455	75,314	40,849	53,764	32,080	1,782
Total Imports	1,088,640	1,153,024	687,379	622,310	730,744	56,338
Unit value (per pound)						
Canada	3.07	2.98	2.79	2.57	2.34	2.37
Austral	2.90	2.93	2.29	1.76	1.93	1.95
Norway	3.33	3.43	2.94	2.10	2.26	2.23
Botswan	2.79	2.67	1.74	1.26	1.29	1.13
FR Germ	4.08	4.30	3.69	2.87	2.67	4.04
France	3.62	3.15	3.79	2.28	2.60	2.74
Rep Saf	2.86	2.72	2.24	2.05	2.10	2.18
Finland	3.00	3.02	2.57	1.95	2.26	2.29
Phil R	2.69	2.50	2.38	1.83	1.69	.60
U King	4.62	4.09	3.49	2.86	3.00	3.74
All Other	2.87	2.91	2.75	1.96	2.36	2.50
Average	3.05	2.97	2.62	2.15	2.14	2.19

Table 3.—Chromium: U.S. imports, 1984

(1,000 short tons, chromium content)

Sources	Ferro-chromium	Chrome ore	Total
South Africa	131.9	108.3	240.2
Zimbabwe	33.4	–	33.4
Turkey	28.2	–	28.2
Yugoslavia	17.9	–	17.9
Philippines	–	17.0	17.0
Finland	–	5.0	5.0
Canada	–	2.3	2.3
All other	32.1	1.7	33.8
Total	243.5	134.3	377.8

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 4.—Manganese: U.S. imports, 1984

(1,000 short tons, manganese content)

Sources	Ferro-manganese	Manganese ore	Total
South Africa	120.6	12.7	133.3
France	96.7	–	96.7
Brazil	40.0	39.1	79.1
Gabon	–	85.5	85.5
Mexico	39.7	25.6	65.3
All other	115.6	161.8	277.4
Total	412.6	324.7	737.3

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 5.—Chromium ore: World mine production and reserve base, 1983

(1,000 short tons, gross weight)

Country	Chromium	
	Mine production	Ore reserve base
United States	0	0
U.S.S.R.	2,700	142,000
South Africa	2,460	6,300,000
Albania	990	22,000
Zimbabwe	475	830,000
Turkey	440	80,000
India	400	66,000
Finland	375	32,000
Philippines	365	32,000
Brazil	310	10,000
Other market economies	351	25,000
Other centrally planned economies	55	4,000
Total	8,921	7,543,000

Source: U.S. Bureau of Mines.

Table 6.—Manganese ore: World mine production and reserve base, 1983

(1,000 short tons, gross weight)

Country	Chromium	
	Mine production	Ore reserve base
United States	0	0
U.S.S.R.	11,500	2,500,000
South Africa	3,181	8,500,000
Brazil	2,300	180,000
China	1,760	110,000
Australia	1,491	540,000
Gabon	2,047	440,000
India	1,455	120,000
Other market economies	860	73,000
Other centrally planned economies	145	25,000
Total	24,739	12,488,000

Source: U.S. Bureau of Mines.

Table 7.--Titanium ore and metal

U.S. IMPORTS FOR CONSUMPTION BY PRINCIPAL SOURCES

Source	1980	1981	1982	1983	1984	
					Year to date	December
Quantity (1,000 short tons)						
Austral	543	344	440	351	527	33
Japan	7,929	11,963	2,797	2,129	10,615	371
Canada	724	3,225	674	1,046	555	94
Rep Saf	89	94	57	22	66	0
Sier Ln	41	25	53	0	38	0
U King	1,327	1,792	1,092	999	2,149	17
Denmark	0	1/	0	0	10	0
FR Germ	1,215	523	157	368	647	29
France	316	205	63	125	374	33
Austria	115	177	48	79	435	0
All Other	4,723	3,415	1,080	1,097	677	179
Total Imports	19,022	21,764	6,454	6,216	16,092	756
Value (1,000 dollars)						
Austral	45,272	42,989	32,046	27,479	39,956	5,662
Japan	52,459	95,831	26,197	16,515	36,840	1,166
Canada	20,720	37,892	34,158	26,201	29,296	4,883
Rep Saf	11,057	15,313	9,779	4,993	10,376	0
Sier Ln	9,515	6,983	13,200	0	10,288	0
U King	7,044	9,363	5,443	1,604	6,288	157
Denmark	0	1	0	0	3,058	0
FR Germ	6,214	4,122	422	771	1,552	119
France	2,287	1,170	124	206	649	82
Austria	704	883	276	72	397	0
All Other	43,611	21,883	2,613	3,120	1,322	485
Total Imports	198,884	235,550	122,257	80,961	140,001	12,554
Unit value (per short ton)						
Austral	83.42	124.83	72.85	78.39	75.83	172.30
Japan	6.62	8.01	9.36	7.76	3.47	3.14
Canada	28.62	11.75	50.65	25.05	52.78	52.18
Rep Saf	124.31	163.20	171.54	228.69	158.11	.00
Sier Ln	232.63	276.69	247.61	.00	270.94	.00
U King	5.31	5.23	5.15	1.60	2.93	9.01
Denmark	.00	56.68	.00	.00	290.31	.00
FR Germ	5.11	7.88	2.69	2.09	2.40	4.09
France	6.98	5.70	1.97	1.65	1.74	2.51
Austria	6.13	4.98	6.97	.91	.91	.00
All Other	4.49	6.15	2.42	2.85	1.95	2.70
Average	10.45	10.82	18.94	13.02	8.70	16.60

U.S. IMPORTS FOR CONSUMPTION BY PRINCIPAL SOURCES

Table 8.--Diamonds, uncut, natural, gemstone

Source	1980	1981	1982	1983	1984	
					Year to date	December
Quantity (not applicable)						
Rep Saf	0	0	0	0	0	0
Belgium	0	0	0	0	0	0
Switzld	0	0	0	0	0	0
U King	0	0	0	0	0	0
Israel	0	0	0	0	0	0
Co Braz	0	0	0	0	0	0
Nethlds	0	0	0	0	0	0
Venez	0	0	0	0	0	0
Liberia	0	0	0	0	0	0
Panama	0	0	0	0	0	0
All Other	0	0	0	0	0	0
Total Imports	0	0	0	0	0	0
Value (1,000 dollars)						
Rep Saf	662,032	282,540	199,849	245,255	258,338	10,730
Belgium	19,206	12,193	25,249	14,623	32,791	4,479
Switzld	11,572	4,054	6,792	2,610	7,215	2,406
U King	193,482	56,866	19,284	13,356	4,631	708
Israel	12,344	6,708	4,877	1,649	4,628	336
Co Braz	4	187	1,130	2,701	4,359	0
Nethlds	6,473	4,217	3,938	1,594	3,481	553
Venez	16,810	6,051	2,817	3,220	2,306	125
Liberia	10,491	2,715	4,742	3,512	2,087	26
Panama	98	0	129	0	1,570	0
All Other	61,563	27,563	4,952	3,488	3,752	76
Total Imports	994,067	403,094	273,748	291,928	325,150	19,435
Unit value (per not applicable)						
Rep Saf	.00	.00	.00	.00	.00	.00
Belgium	.00	.00	.00	.00	.00	.00
Switzld	.00	.00	.00	.00	.00	.00
U King	.00	.00	.00	.00	.00	.00
Israel	.00	.00	.00	.00	.00	.00
Co Braz	.00	.00	.00	.00	.00	.00
Nethlds	.00	.00	.00	.00	.00	.00
Venez	.00	.00	.00	.00	.00	.00
Liberia	.00	.00	.00	.00	.00	.00
Panama	.00	.00	.00	.00	.00	.00
All Other	.00	.00	.00	.00	.00	.00
Average	.00	.00	.00	.00	.00	.00

Table 9.--Fine earthenware food utensils

U.S. EXPORTS BY PRINCIPAL MARKETS

Market	1980	1981	1982	1983	1984	
					Year to Date	December
Quantity (1,000 dozen)						
Canada	395	373	280	421	315	8
Rep Saf	0	3	1	4	129	1/
Norway	0	0	1/	0	5	0
U King	87	18	31	19	8	1/
Japan	1	3	84	4	4	1/
Austral	37	21	29	15	41	12
Bahamas	19	13	2	5	5	1/
N Zeal	1/	2	1	3	52	0
S Arab	7	8	14	8	4	1/
FR Germ	3	5	5	2	2	0
All other	185	165	142	80	75	12
Total exports	734	611	590	561	639	33
Value (1,000 dollars)						
Canada	1,960	1,832	1,274	1,524	1,128	23
Rep Saf	0	45	48	69	511	2
Norway	0	0	5	0	422	0
U King	1,104	258	544	329	164	1
Japan	32	77	242	97	124	5
Austral	194	351	290	128	122	32
Bahamas	160	66	34	86	113	13
N Zeal	2	24	11	9	109	0
S Arab	68	189	165	206	107	1
FR Germ	109	83	65	134	104	0
All other	1,290	1,690	1,593	650	531	37
Total exports	4,918	4,615	4,263	3,232	3,428	115
Unit value (per dozen)						
Canada	4.96	4.91	4.55	3.62	3.56	2.86
Rep Saf	.00	13.12	33.94	18.24	3.96	41.82
Norway	.00	.00	11.65	.00	77.86	.00
U King	12.70	14.72	17.51	17.10	20.05	8.33
Japan	22.91	28.87	2.89	21.53	28.61	18.02
Austral	5.26	16.53	10.15	8.66	2.97	2.64
Bahamas	8.37	5.05	16.40	17.55	21.79	27.35
N Zeal	15.34	12.05	14.20	3.20	2.12	.00
S Arab	10.07	23.11	11.69	27.50	29.80	2.75
FR Germ	39.46	17.83	11.98	70.30	47.94	.00
All other	6.96	10.25	11.20	8.11	7.22	3.14
Average	6.70	7.56	7.23	5.77	5.36	3.45

U.S. EXPORTS BY PRINCIPAL MARKETS

Table 10.--Vitreous china food utensils

Market	1980	1981	1982	1983	1984	
					Year to Date	December
Quantity (1,000 dozen)						
U King	22	19	126	128	504	46
Austral	46	48	178	377	420	22
Rep Saf	1/	3	145	115	215	0
Canada	151	245	197	140	151	9
Japan	8	4	279	120	51	1
Belgium	4	2	141	185	236	12
Nethlds	1	1	1/	3	302	0
Jamaica	38	11	2	37	32	1
Singapr	2	5	26	73	69	1
S Arab	13	58	18	80	47	1/
All other	307	277	383	265	318	32
Total exports	591	673	1,496	1,523	2,544	131
Value (1,000 dollars)						
U King	463	452	1,665	1,281	3,709	429
Austral	566	473	2,004	2,015	3,853	140
Rep Saf	9	100	1,233	1,255	1,591	0
Canada	2,250	3,211	2,892	2,191	1,178	89
Japan	146	117	813	1,256	1,136	42
Belgium	151	42	553	822	1,024	59
Nethlds	74	51	15	73	990	0
Jamaica	126	86	29	799	735	31
Singapr	38	142	468	664	715	55
S Arab	1,084	1,779	652	1,806	650	5
All other	7,405	6,872	5,641	4,035	4,573	257
Total exports	12,313	13,325	15,964	16,198	19,353	1,107
Unit value (per dozen)						
U King	21.28	23.46	13.20	9.98	7.36	9.31
Austral	12.39	9.79	11.27	5.34	7.27	6.48
Rep Saf	99.81	38.40	8.49	10.94	7.41	.00
Canada	14.93	13.08	14.69	15.69	7.78	9.64
Japan	18.19	27.14	2.92	10.49	22.40	32.00
Belgium	35.65	20.40	3.91	4.43	4.34	4.77
Nethlds	53.05	88.60	41.74	22.43	3.28	1.00
Jamaica	3.34	7.92	11.94	21.84	23.23	39.16
Singapr	23.27	29.98	18.24	9.12	10.37	8.18
S Arab	83.59	30.88	35.41	22.48	13.76	37.14
All other	24.13	24.80	14.72	15.22	14.38	7.90
Average	20.83	19.80	10.67	10.63	8.26	8.47

U.S. EXPORTS BY PRINCIPAL MARKETS

Table 11.--Table, Kitchen, art, and notelty products

Market	1980	1981	1982	1983	1984	
					Year to Date	December
Quantity (not applicable)						
Canada	0	0	0	0	0	0
Japan	0	0	0	0	0	0
Rep Saf	0	0	0	0	0	0
Austral	0	0	0	0	0	0
S Arab	0	0	0	0	0	0
Singapr	0	0	0	0	0	0
FR Germ	0	0	0	0	0	0
Trinid	0	0	0	0	0	0
U King	0	0	0	0	0	0
Hg Kong	0	0	0	0	0	0
All other	0	0	0	0	0	0
Total exports	0	0	0	0	0	0
Value (1,000 dollars)						
Canada	21,099	22,207	15,889	18,409	24,500	1,263
Japan	3,411	4,206	3,408	4,254	4,705	596
Rep Saf	4,338	4,909	1,667	2,635	4,245	37
Austral	6,926	9,014	6,884	4,339	4,216	252
S Arab	4,435	4,977	5,724	3,388	2,227	85
Singapr	4,726	5,286	3,673	1,649	1,684	65
FR Germ	4,924	3,122	2,885	1,357	1,646	177
Trinid	1,261	1,360	2,447	2,064	1,586	210
U King	3,763	5,402	2,201	1,778	1,494	125
Hg Kong	1,499	1,977	1,739	1,826	1,411	201
All other	46,419	51,297	36,971	21,246	17,475	1,427
Total exports	102,795	113,677	82,688	62,860	65,387	4,539
Unit value (per not applicable)						
Canada	.00	.00	.00	.00	.00	.00
Japan	.00	.00	.00	.00	.00	.00
Rep Saf	.00	.00	.00	.00	.00	.00
Austral	.00	.00	.00	.00	.00	.00
S Arab	.00	.00	.00	.00	.00	.00
Singapr	.00	.00	.00	.00	.00	.00
FR Germ	.00	.00	.00	.00	.00	.00
Trinid	.00	.00	.00	.00	.00	.00
U King	.00	.00	.00	.00	.00	.00
Hg Kong	.00	.00	.00	.00	.00	.00
All other	.00	.00	.00	.00	.00	.00
Average	.00	.00	.00	.00	.00	.00

U.S. IMPORTS FOR CONSUMPTION BY PRINCIPAL SOURCES

Table 12.--Metal coins

Source	1980	1981	1982	1983	1984	
					Year to date	December
			Quantity (not applicable)			
Rep Saf	0	0	0	0	0	0
Canada	0	0	0	0	0	0
Mexico	0	0	0	0	0	0
U King	0	0	0	0	0	0
China P	0	0	0	0	0	0
Switzld	0	0	0	0	0	0
Uruguay	0	0	0	0	0	0
Belgium	0	0	0	0	0	0
FR Germ	0	0	0	0	0	0
France	0	0	0	0	0	0
All Other	0	0	0	0	0	0
Total Imports	0	0	0	0	0	0
			Value (1,000 dollars)			
Rep Saf	941,004	381,774	363,564	366,644	485,216	219
Canada	500,018	360,092	266,513	155,096	390,941	5,519
Mexico	196,436	423,270	373,060	29,273	61,065	5,982
U King	44,879	40,317	20,063	14,730	45,388	3,177
China P	-	-	-	5,116	26,476	2,454
Switzld	97,042	30,298	11,242	14,184	25,587	2,100
Uruguay	878	1,581	5,794	627	18,125	288
Belgium	22,066	4,022	3,522	2,811	7,339	308
FR Germ	21,864	2,806	2,633	1,643	3,889	277
France	3,096	2,381	2,102	2,386	3,782	127
All Other	91,970	39,885	51,653	36,589	24,085	4,036
Total Imports	1,921,253	1,286,426	1,100,206	627,099	1,091,892	24,488
			Unit value (per not applicable)			
Rep Saf	.00	.00	.00	.00	.00	.00
Canada	.00	.00	.00	.00	.00	.00
Mexico	.00	.00	.00	.00	.00	.00
U King	.00	.00	.00	.00	.00	.00
China P	.00	.00	.00	.00	.00	.00
Switzld	.00	.00	.00	.00	.00	.00
Uruguay	.00	.00	.00	.00	.00	.00
Belgium	.00	.00	.00	.00	.00	.00
FR Germ	.00	.00	.00	.00	.00	.00
France	.00	.00	.00	.00	.00	.00
All Other	.00	.00	.00	.00	.00	.00
Average	.00	.00	.00	.00	.00	.00

H.R. 1004

To amend the National Traffic and Motor Vehicle Safety Act of 1966 to establish procedures under which any person may petition for an investigation (including testing and inspection) regarding any automobile manufacturer's certification of compliance with vehicle safety standards, and to permit suspension of importation of vehicles pending the outcome of such investigation

U.S. DEPARTMENT OF COMMERCE,
Washington, DC, June 24, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in response to your request for the views of this Department on H.R. 1004, a bill "To amend the National Traffic and Motor Vehicle Safety Act of 1966 to establish procedures under which any person may petition for an investigation (including testing and inspection) regarding any automobile manufacturer's certification of compliance with vehicle safety standards, and to permit suspension of importation of vehicles pending the outcome of such investigation."

The Department of Commerce opposes enactment of H.R. 1004.

H.R. 1004 would establish a statutory mechanism to allow any person to petition the Secretary of Transportation requesting an investigation of any automobile manufacturer's certification of compliance with U.S. motor vehicle safety standards. In addition, H.R. 1004 would authorize the National Highway Traffic Safety Administration (NHTSA) to order suspension of importation of any automobile, and prevent manufacturers from distributing any automobile for sale, that was covered by a safety investigation until the investigation was completed.

Under current law, any person can request the Administrator of NHTSA, the Secretary of Transportation's authorized representative on vehicle safety issues, to investigate alleged vehicle defects that could present a public safety hazard. H.R. 1004 would permit complaints which neither cite a specific safety hazard nor provide any data sustantiating the complaint. Following its investigation, NHTSA presently can order domestic or foreign manufacturers to recall any vehicles with probable safety problems for necessary repairs or adjustments. H.R. 1004 provides broader authority, as noted above, to suspend importation or distribution of vehicles.

The Department opposes H.R. 1004 because it would create an unnecessary regulatory burden on U.S. industry without producing significant benefits to consumers. In addition, the bill could be used to restrict U.S. commerce in a discriminatory manner. Current U.S. regulation of motor vehicle safety is based on self-certification by both domestic and foreign manufacturers of their compliance with federally mandated standards. This system has proven successful in protecting consumers while minimizing the regulatory burden on vehicle producers. H.R. 1004 could increase substantially the regulatory burden on all automobile manufacturers by forcing them to provide greater and more frequent evidence of their compliance with U.S. safety standards.

We are especially concerned about provisions of H.R. 1004 that would authorize NHTSA to prevent the introduction into U.S. interstate commerce of automobiles which are the subject of safety investigations. These provisions could cause serious economic hardship to domestic manufacturers whose vehicles came under investigation and their U.S. dealers, since a single model line generally includes thousands of vehicles.

In addition, H.R. 1004 would authorize NHTSA to suspend importation of vehicles subject to a safety investigation. This provision could be subject to abuse and applied in a way that discriminates against foreign manufacturers that sell automobiles in this country. For these reasons, the probable benefits of H.R. 1004 to the public in terms of increased highway safety are likely to be small, particularly in comparison to the added regulatory and economic burden which the bill could impose on the automobile industry.

The revenue effects of H.R. 1004 are difficult to estimate due to uncertainty about the total quantity and value of automobile imports which the bill might exclude from the United States. Enactment of H.R. 1004 would have no impact on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to Congress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS,
General Counsel.

H.R. 1006

To amend the National Traffic and Motor Vehicle Safety Act of 1966 with respect to certain passenger motor vehicle safety requirements, and for other purposes

Statement of Robert M. McElwaine, President, American International Automobile Dealers Association

SUMMARY OF TESTIMONY

In the past five years, the importation of automobiles that do not comply with United States safety and emission standards for re-sale through the "grey market" has grown from a trickle to a flood. In 1984, an estimated 40,000 imported cars were sold on the U.S. grey market. Surveys indicate that as much as 99 percent of these cars did not fully comply with U.S. standards.

AIADA estimates that, unless checked, the influx of grey market cars could reach as high as 100,000 units in 1986.

By failing to halt the influx of non-complying vehicles, the National Highway Traffic Safety Agency has created two classes of automobile importers and retailers—those who must abide by the law, certifying under penalty of the law that their vehicles comply with U.S. regulations, that they have been properly tested before such certification; and those who simply enter their vehicles for a one-time lab check and submit photographs of dubious authenticity to the NHTSA, in order to sell their vehicles in this country.

There appears to be a disregard of the principle of "equal protection under the law" when one class of retailers is subject to a fine of $10,000 for simply "tampering" with the emission controls of a vehicle, while another class may, with impunity, sell vehicles that do not comply with either the safety or emission requirements of this country.

In October, 1983, Ms. Steed affirmed her concerns over "grey market" imports and said that this activity is "currently under active investigation and is being pursued vigorously." Since that time, the volume of grey market imports has increased four-fold.

The continuing sale of grey market cars constitutes a risk to the consumer's safety as well as to his pocketbook. The jerry-built manner in which most of these cars are modified not only fails to provide the passenger protection required under U.S. law, but frequently creates additional hazards. The Department of the Treasury has claimed that these modifications frequently transform the car into "an explosive time bomb."

Purchasers of grey market cars are finding that: (a) they frequently have no warranty protection at all on their supposedly "new" cars; (b) the larger warranty companies, such as General Warrants and American Warranty, will not issue extended service contracts on grey market cars; (c) franchised dealers are unable to service these gray market cars because of mechanical differences and the threat of liability damages; (d) the resale value of such cars is significantly less than for U.S. models and franchised dealers refuse such cars as trade-ins; (e) manufacturers have no way to reach them in the event of a safety recall of the vehicle.

The unregulated state of the grey market has created a thriving outlet for stolen cars, wrecked cars and cars bearing fradulent odometer readings.

Many states, including California and Florida, have taken steps to reduce the sale of grey market cars; Canada simply forbids their importation. It is time the U.S. Congress closed the loophole in the law that permits the importation of non-complying vehicles. The original rationale for this special treatment has long since been eroded.

STATEMENT

The sale of grey market automobiles in the United States constitutes an affront to the environment and a risk to the consumer's pocketbook as well as his personal safety. The jerry-built manner in which most of these cars are modified not only

fails to provide the passenger protection required under U.S. law, but often creates additional hazards. The Department of the Treasury has claimed that these modifications frequently transform the car into "an explosive time bomb."

Despite a substantial body of evidence establishing that grey market cars almost always fail to met U.S. safety and emission standards established for them, and that customers purchasing these cars are denied warranty coverage and other protections guaranteed purchasers of imported cars through normal distribution channels, the concenred Federal agencies have continued to allow grey market operators to grow and flourish.

The responsible agencies have permitted the influx of non-complying cares despite the actions of three Congressional committees, all of which have unanimously asserted that automobiles should not be imported into this country unless they have been certified by the original manufacturer to comply with U.S. standards.

By failing to halt the influx of non-complying vehicles, the National Highway Traffic Safety Agency has created two classes of automobile importers and retailers—those who must certify under penalty of the law that their vehicles comply with U.S. regulations, that they have been properly tested before such certification; and those who simply entered their vehicles for a one-time lab check and submit photographs of questionable authenticity to the NHTSA, in order to sell their vehicles in this country.

The legislative record shows clearly that it was never the intent of Congress that the agencies use their discretionary authority in cases of individual imports to permit the wholesale importation of non-complying vehicles for resale, after dubious modifications to bring such vehicles into supposed compliance.

The original rationale for the personal use exemption was that many models of European cars were not available for the U.S. market since the manufacturer had not elected to produce such cars to meet U.S. specifications. This rationale has long since been eroded by the actions of the manufacturers to produce a wide variety of models for the U.S. market. There is no factual justification to continue to permit the importation of non-complying vehicles.

The need for congressional action

Congressional action is required to clarify the obvious intentions of the legislators who drafted and approved the original safety laws in 1966. Such clarification has been necessitated by unforeseen developments in the marketplace and by the inability of the Federal regulatory agencies to control the influx of non-complying vehicles.

In October, 1983, when confirmed by this committee for her appointment as Administrator, Ms. Steed affirmed her concerns over "grey market" imports and said that this activity is "currently under active investigation and is being pursued vigorously." Since that time, the volume of grey market imports has increased fourfold.

When a Federal agency is confronted with a record of violations of the law so extensive, when an agency expresses its own inability to enforce the law, then a rational individual must conclude that the practice must be stopped.

Congressional action is required because the designated Federal agencies have failed to show the necessary diligence or sense of urgency to deal with a problem that has multiplied in a few years.

During the four years that the Environmental Protection Agency has been studying the problem, the influx of grey market cars has grown from 8,000 to 40,000 per year, with every indication that next year's total may double this year's. The EPA's response to our industry's pleas for action has been to indicate they will "announce" various rule-making procedures as "options" for dealing with the problem. At a 1984 congressional hearing, the NHTSA Administrator said the agency considered the problem "serious," but no further action has been taken.

Meanwhile, consumers who purchase these grey market cars in every-growing numbers, must operate under the code of cavet emptor. The buyer of such cars can only hope that the modifications made to the car to enable it to pass a one-time EPA test do not jeopardize his safety. Many such cars have been found to have been modified by welding a GM catalyst, which produces extremely high temperatures, directly alongside the fuel line.

Other cars examined by Mercedes-Benz dealers were found to have steel bars designed to prevent side penetration in accidents that were held in place only by metal screws or bolts. None of these cars carry the warranty protection provided by the manufacturer's United States distributors on cars built for the U.S. market and most of them have no warranty coverage at all.

In the event of a safety recall, the manufacturer has no way to communicate with these grey market car owners, since it has no record of the transaction. Franchised dealers cannot or will not provide service work for the cars, since they do not stock parts for these models, their mechanics are not trained to work on them and they are subject to a $10,000 fine for tampering if they modify the non-standard emissions system. The problems of liability in these cases are very real.

Another peril for grey market buyers is the annual emission inspection in states where such inspection are required. There is a very good chance the car will fail the emission inspection and an even better chance that the car cannot be modified so that it will pass the inspection.

Safety Act needs amending

Passage of an amendment to Section 102(5) of the National Traffic and Motor Vehicle Safety Act of 1996 (15 U.S.C. 1391(5)) will assure that the American consumer who wants to buy a foreign-made vehicle will have confidence that the vehicle was produced so as to comply with applicable U.S. safety and emission laws that apply to all other vehicles, foreign and domestic, and their owners. Also, it will assure that vehicles will be fully warranted; that spare parts will be available; that all service will be able to be performed by qualified service technicians; that all U.S. laws such as gas guzzler, fuel economy, etc. apply to it; and, finally, that American businessmen who have invested in a legitimate enterprise and their thousands of employees will no longer be undercut by others who subvert basic U.S. laws which are designed to assure the *all* vehicles are safe and that they comply with the nation's emission laws.

Purchasers of grey market cars are finding that: (a) they frequently have no warranty protection at all on their supposedly "new" cars; (b) the larger warranty companies, such as General Warranty and American Warranty, will not issue extended service contracts on grey market cars; (c) franchised dealers are unable to service their grey market cars because of mechanical differences and the threat of liability damages; (d) the resale value of such cars is significantly less than for U.S. models and franchised dealers refuse such cars as trade-ins; (e) manufacturers have no way to reach them in the event of a safety recall of the vehicle.

Indeed, the unregulated state of the grey market has created a thriving outlet for stolen cars, wrecked cars and cars bearing fraudulent odometer readings. Since the grey market cars carry instruments calculated in kilometers, odometers must be replaced when the cars are modified. In most cases, these new odometers are set at "zero," regardless of the actual mileage on the vehicle. Some grey market cars purchased as new have been found to be one or two years old.

In many cases, the title to the vehicle is questionable and the purchaser may have great difficulties in obtaining a valid ownership certificate.

There appears to be a disregard of the principle of "equal protection under the law" when one class of retailers is subject to a fine of $10,000 for simply "tampering" with the emission controls of a vehicle, while another class may, with inpunity, sell vehicles that do not comply with either the safety or emission requirements of this country.

The illogic of the present system is best demonstrated by assuming that a businessman went to the NHTSA and the EPA and asked for permission to enter 50,000 imported vehicles a year into U.S. commerce. The automobiles would not comply with U.S. safety and emission standards, but, the businessman assured the agencies, he would modify them after importation and submit evidence that such modification had, indeed, been carried out.

Unquestionably, the agencies would deny his request, pointing out that Federal law demands that such vehicles be thoroughly tested by the manufacturer for compliance before their importation, that the assembly lines be available for random checks, that the cars be subject to unscheduled testing before sale and that the vehicles be available for recall by the manufacturer in the event they were found not to be in compliance according to the certification.

Yet these same agencies are permitting the importation of non-complying vehicles in volume, simply on the grounds that they are being imported by a few score entrepreneurs rather than by a single corporation or individual. Such hair-splitting does not make sense, either from a legal sense or as a matter of logic.

Many states, including California and Florida, have taken steps to reduce the sale of grey market cars; Canada simply forbids their importation. It is time the U.S. Congress closed the loophole in the law that permits the importation of non-complying vehicles. The original rationale for this special treatment has long since been eroded.

The NADA, AIADA, and Mercedes-Benz of North America have presented detailed descriptions of over 1,000 vehicles to indicate the level of noncompliance existing in grey market vehicles not OEM certified for importation into the United States. These vehicles have consistently shown an over 90% noncompliance rate. There is absolutely no evidence existing which contradicts this extensive number of vehicles. In addition, we understand that the NHTSA has also purchased two vehicles to determine levels of compliance. Once again, although a report has not been provided, it is understood that full compliance was not achieved by these vehicles.

Not only were the vehicles identified in the foregoing surveys not in compliance, there were very often defects created in the vehicles as a result of modifications. For instance, in a significant number of vehicles catalysts were placed dangerously close to fuel lines. Modifications to achieve compliance with fuel integrity standards resulted in gas tanks rupturing and, finally, there were numerous instances where safety equipment such as side door reinforcement bars were manufactured in such a way as to create a safety hazard rather than provide compliance.

On March 18, 1985, Mercedes-Benz of North America transmitted to Senator Danforth, Chairman of the Senate Committee on Commerce, a report covering a grey market vehicle which it purchased for the purpose of determining compliance. Mercedes-Benz specifically attempted to purchase a grey market vehicle modified by one of the major grey market importers in the United States. The purchase of this vehicle demonstrated that:

> The vehicle was modified and licensed for operation on the road within two weeks after importation into the United States without ever having any material submitted to the United States government and prior to any approval being provided by the government;
>
> The Department of Transportation has determined that the pictures transmitted to it for final approval of the vehicle do not match the actual modifications performed on the vehicle.
>
> Of the 33 applicable safety standards involved, 15 required no modification to the vehicle in its non-U.S. configuration for compliance purposes. One standard was satisfied by the addition of a label. Of the 17 standards which the vehicle does not satisfy in its non-U.S. configuration, no effort whatsoever was made to bring 10 into compliance. Finally, modifications performed for the remaining 7 did not achieve compliance.

As indicated in the survey reports and in the engineering report on the grey market vehicle purchased by Mercedes-Benz of North America, often times modifications result in the creation of a safety defect. These defects are often *not* capable of being identified by visual or engineering inspection of the vehicle. Thus, a statutorily approved program that does not require static testing of safety components, including crash testing of vehicles, will not identify safety defects. Such a modification defect in a grey market vehicle was the cause of a fire death.

An engineering report of a grey market vehicle which burned and killed a young woman passenger indicates that the evaporative emission control line and system was installed in such a way as to result in the catalyst being covered with gasoline during the accident. This resulted in a fire so hot that the transmission and front wheels of the vehicle were melted. Two points directly related to safety certification and the grey market are of primary importance.

> First, the fuel lines that were exactly adjacent to the grey market modified line have been subjected to extensive OEM crash testing, roll over testing, and other manufacturer requirements and, as a result, were totally intact and did not contribute in any way to the death.
>
> Second, without specific engineering testing, visual inspection of the grey market modification would have established no visible basis for the federal government rejecting the modification.

The result, an individual has died as the result of a grey market modification and the grey market modifier has declared bankruptcy and left the area and cannot be found.

All grey market importers use the simplistic question if it can be modified to comply why not allow it as a defense of appropriate legislation. This question assumes the key fact necessary for safety compliance. Cars not designed for the U.S. *cannot* be simply modified.

Proof of the foregoing fact is evident from the recent actions of Ford Motor Co. and Daimler-Benz. It is our understanding that Ford Motor Co. wanted to bring its new Merkur vehicle, which has been marketed in Europe under a different name, to the U.S. as soon as possible. The Company looked into the option of merely taking the European vehicle from the assembly line and modifying it to meet U.S. standards. The original manufacturer of the vehicle with its extensive engineering experi-

ence and technical capability found it could not do this and assure compliance. As a result well over a year's worth of work are necessary to bring the vehicle into compliance. The same result occurred when Daimler-Benz, in an effort to sell the same vehicle the grey market was bringing to the U.S., attempted to modify its 500 series vehicles.

Accordingly, even when the profit motive and expertise of the manfacturer who designed the vehicle is used, there is no simple, easy way to modify and assure compliance and the non-existence of defects. How can any person handling 1-10 or even more of these vehicles with no knowledge of their design parameters be expected to accomplish compliance?

Grey market auto imports constitute a safety problem

Failure to comply with U.S. safety standards constitutes a safety problem. Documentary evidence has been produced that virtually no grey market import fully complies with U. S. law. Considering that, in 1984, at least 37,000 grey market imports entered the country and the current rate of importation indicates that 50,000 will be sold in the U.S. in 1985, it is obvious that the continued entry of grey market cars into U.S. commerce constitutes a safety problem of significant and growing import.

The issue of non-compliance, however serious, is only a part of the overall safety problem posed for customers who purchase these largely unregulated vehicles. Jerry-built and incompetent modifications made to these vehicles by largely unqualified and frequently unscrupulous operators often transform sound, well-constructed automobiles into potential hazards to the lives and safety of the driver and passengers.

Modifications that create safety hazards most frequently concern the installation of catalytic converters in cars for which they were not designed, usually in close proximity to fuel lines; and the cosmetic insertion of internal door bars to enable the vehicles to appear to comply with Federal side penetration standards.

The imporperly done catalyst installations result in a serious fire hazard. The U.S. Customs Service has described such vehicles as "explosive time bombs."

In a side-impact collision, the cosmetically-installed door bars, usually cut in half for ease of insertion, then spot-welded, but frequently held in place only by metal screws (and in one particularly flagrant violation, consisting of a black-painted broomstick!), become projectiles, endangering the lives and safety of the passengers.

A serious safety hazard is created by the fact that, since the authorized manufacturer/importer has no record of the importation of the grey market vehicles, there is not way to reach the owners in the event of a safety recall. The Federal requirment that all manufacturers maintain up-to-date owner lists and that owners be notified promptly in the event of a safety recall is thus being flouted by the grey marketers.

The unregulated state of the grey market has also permitted the sale of previously-wrecked automobiles as "new vehicles." An improperly repaired wrecked car obviously constitutes a safety problem for its driver and passengers, as well as for other motorists on the road.

U.S safety standards have been promulgated to protect the lives and health of our citizens. Automobiles that fail to comply with those standards, therefore, by definition constitute a safety problem. Numerous studies have been made of grey market cars, by Mercedes-Benz dealers to whom they have been brought for service, and by the National Automobile Dealers Association, as well as by the California Air Resources Board. Of all the cars surveyed in these studies, the number that appear to comply with all Federal regulations are so few that they would appear to be statistically insignificant.

This leads to the conclusion, which is endorsed by the manufacturers of those cars most frequently entered into the grey market, that *it is not possible to modify an automobile not specifically built for the U.S. market to conform 100 percent with U.S. standards at a cost that is commercially acceptable.*

Once this premise is accepted and understood, it becomes clear that the only way Congress can assure that the benefits of U.S. safety standards are extended to all car buyers is to require that all automobiles entering the United States be certified by the original manufacturer to meet this nation's standards.

Actions taken by states to reduce the volume of grey market activity

California has taken advantage of its air pollution control authority to restrict grey market activity in that state. California Air Resources Board (CARB) tests of grey market vehicles have found that none tested met Federal Standards, let alone the stricter California new car standards. The State currently bars titling of grey market cars with less than 7,500 miles on the odometer, since these are classified as

new cars under California law. There are reports that grey market dealers roll up the odometer to evade the law. In light of widespread abuse, the state is currently considering alternative approaches to the grey market problem.

California does have a vigorous enforcement program and responds quickly to reports of dealers operating without a license. It shuts down businesses found to be in violation of the law.

Both California and Florida, like many other states, have cracked down on titling requirements for grey market vehicles. In the past, many such vehicles were titled on the basis of foreign documents which offered no proof of ownership, many of which were essentially homemade documents which permitted the maker to include misleading model year and prior use information. Both states now require the vehicle owner to produce the documents which are accepted as official proof of ownership in the country in which the vehicle was originally sold.

Florida passed legislation—which has been copied by a number of states—which requires that the applicant for a certificate of title must present both the EPA and the DOT bond release letters before the vehicle may be titled. Recently, proponents of the grey market have introduced a bill which would weaken the law to (1) permit vehicles to be sold to consumers despite the absence of federal approval of the modifications and (2) permit the vehicle to be registered and operated upon the roads for up to a year before the EPA and DOT approvals have been obtained. Both changes would amend Florida law to permit actions which are prohibited under federal law.

A number of states have considered inspecting grey market vehicles to ensure that they meet federal and state safety standards and present no modification-caused safety hazards. However, this proposal has generally been rejected as beyond a state's expertise and resources.

In general, the grey market presents a wide range of law enforcement problems for the states in the areas of safety, consumer protection, dealer licensing and regulation, detection of stolen vehicles, and the assurance of accurate age, ownership and mileage information through the vehicle titling process. In addition, the primary effect of action in one state is simply to shift grey market activity to another state.

The grey market problem as it applies to auto dealers

It is not possible to ascribe any loss to franchised automobile dealers as a result of the grey market activities in dollar terms. The manufacturers producing the cars most frequently encountered in the grey market—Mercedes-Benz, BMW, Porsche—allocate vehicles to their various export markets according to their productive capacities. All of the U.S. dealers in these vehicles are currently selling their entire allocations. Ending the grey market would not increase these allocations, since these cars have previously been allocated to and sold at retail in other countries.

Grey market cars, therefore, are not depriving franchised dealers of sales; nor would ending the grey market increase their allocations or sales.

The dealers' very deep concerns over the expanding grey market are rooted in the damage being done to the reputation of the vehicles they sell resulting form consumer dissatisfaction with vehicles that have been modified from their original conformation in a haphazard and inexpert manner. These grey market cars are being brought to franchised dealers for service in growing volume, since the grey market operators seldom provide any service at all.

Franchised dealers frequently refuse to service grey market vehicles at all, for fear of "tampering" charges stemming from operating on non-standard emission control devices and from the potential liability involved in servicing cars that may have been made unsafe through inexpert modification.

Such actions create resentment on the part of the grey market purchaser, since he frequently is unable to distinguish between a U.S. model Mercedes-Benz and one that has been brought in through the grey market and modified by some independent operator. The absence of a U.S. warranty, the refusal of the major warranty companies to issue service contracts on grey market cars and the inability to buy insurance coverage on these cars from many major insurers frequently negates decades of effort on the part of franchised dealers and their manufacturers to build up a national reputation for reliability, for service excellence and customer satisfaction.

The grey market operators

The performance of the modifiers over the past five years gives no basis for assuming they have the capacity to modify noncomplying vehicles in such a way that they truly meet all applicable U.S. standards. At least 95 percent of their product falls short of the minimum requirements and it appears reasonable to claim that not a single grey market car has been sold that fully qualifies as meeting all U.S. requirements.

The two-year-old position of the trade association representing the grey marketers, that they can "self-police" their members to eliminate violations of Federal requirements would seem to be invalid. Certainly, in the time they have endeavored to implement such self-regulation, there has been no discernible improvement in the performance of the modifiers.

Finally, it must be clearly understood that the plethora of cottage businesses that have sprung up in support of the grey market are a consequence of a serious misapplication of the law. It is difficult to justify the continued existence of a business that survives only because of distortions of the intentions of the lawmakers.

The legislative record shows clearly that it was never the intent of Congress that the agencies use their discretionary authority in cases of individual imports to permit the wholesale importation of non-complying vehicles for resale, after dubious modifications to bring such vehicles into supposed compliance.

The original rationale for the personal use exemption was that many models of European cars were not available for the U.S. market since the manufacturer had not elected to produce such cars to meet U.S. specifications. Today, virtually the only cars produced by European manufacturers that are not available in a U.S. model are those the manufacturer has determined cannot be modified in any fashion to comply with U.S. law.

A wide variety of models are produced for the U.S. market, thus eroding any original justification for the personal use exemption. There is no longer any factual justification to continue to permit the importation of non-complyling vehicles, particularly in view of the undeniable record showing that such cars have become a serious safety problem.

The only remaining argument the grey marketers have against legislative action to require that every imported automobile be certified by the original manufacturer to comply with U.S. laws is that such action would jeopardize what has become a lucrative business for them.

Claims that such legislation would force them to close their business and reduce employment, however, should be regarded as essentialy self-serving. The vast majority of compliance garages were in business long before the existence of the grey market. For most of them, compliance work provides only a fraction of their income. Without the grey market, they will continue to prosper with the customizing and repair work they were doing long before entrepreneurs discovered the loopholes in U.S. safety and emission control standards that enabled them to develop the grey market.

H.R. 1022

To amend the Agricultural Adjustment Act of 1938 to prohibit the importation of tobacco which has been grown or processed using pesticides and other chemicals whose use has been prohibited in this country for health reasons

U.S. International Trade Commission

Purpose of the legislation

H.R. 1022, if enacted, would amend the Agricultural Adjustment Act of 1938 by providing that, notwithstanding any other provision of law, all tobacco offered for importation into the United States shall be accompanied by a written certification by the importer, in such form as the Secretary of Agriculture may prescribe, that none of the pesticides the registration of which has been canceled or suspended for use on tobacco in the United States under the Federal Insecticide, Fungicide, and Rodenticide Act, has been used in the production of the tobacco offered for importation into the United States. Tobacco that is not accompanied by the certification will not be permitted entry into the United States. The Secretary of Agriculture shall be empowered to enforce the amendment to the Agricultural Adjustment Act of 1938 and by regulation fix and collect from the importer fees and charges which shall cover the costs of the Secretary's services, including the administrative and supervisory costs customarily included by the Secretary in user fee calculations.

Description and uses

Tobacco (*Nicotiana tabacum*) is a tall, erect plant cultivated as an annual for its leaves, which are prepared for use in smoking or chewing. The average height of the plant of the more widely cultivated varieties ranges from 4 to 6 feet. There are marked differences in the number of leaves per plant and the size, shape, arrangement, venation, color, and other leaf characteristics by plant strain variety. In general, the number of leaves per plant ranges from 20 to 30, while leaf size ranges from 2 inches to 30 inches in length, with corresponding differences in width.

The USDA designates seven classes of tobacco grown in the United States. Differences between classes come chiefly from variations in soils and climate, varieties of seed, cultural practices, and curing methods. The seven classes are flue-cured, air-cured, cigar filler, cigar binder, cigar wrapper, and miscellaneous. Three classes (flue-, fire-, and air-cured) are named on the basis of the method used in curing. Three others (cigar filler, cigar binder, and cigar wrapper) are named on the basis of their traditional use in cigars.

Each class of tobacco, with the exception of miscellaneous, comprises two or more types. Differences between types include color, body, and response to aging and fermentation. As growing and curing techniques are generally similar for all types within a class, differences are attributable to soil or climatic factors. In some instances, such as flue-cured tobacco, the different types are so similar that the type designation applies only to a certain marketing area.

The classes of tobacco grown in the United States, their principal use, production volume, and the States in which they are grown, are presented in table 1.

Flue-cured tobacco is the class most commonly produced in the United States. Flue-cured leaf ranges from reddish orange to bright yellow in color and is characterized by its light body, fine, oily texture, and mild and somewhat aromatic taste. As the name implies, this tobacco is heat-cured in airtight curing barns heated by a system of flues. USDA reports that about 95 percent of domestic flue-cured leaf consumed in the United States in 1984 was used in the production of cigarettes. Marketings of flue-cured tobacco in recent years have averaged about 900 million pounds, of which about half was exported.

TABLE 1.—CLASSES OF TOBACCO: PRODUCTION, PRINCIPAL USE, AND STATES IN WHICH GROWN, 1984

Class	Production		Principal use	States in which grown
	Quantity (million pounds)	Share of total (percent)		
Flue-cured (types 11–14)	856.3	49.3	Cigarettes	Virginia, North Carolina, South Carolina, and Georgia
Air-cured:				
Light air-cured:				
Burley (type 31)	729.9	42.1	Cigarettes and pipe tobacco.	Kentucky, Tennessee, Ohio, Indiana, Virginia, North Carolina, West Virginia, and Missouri
Maryland (type 32)	41.6	2.4	Cigarettes	Maryland
Dark air-cured (types 35–37)	17.6	1.0	Chewing tobacco and snuff.	Kentucky, Tennessee, and Virginia
Fire-cured (types 21–23)	51.9	3.0	Snuff and pipe tobacco	Virginia, Kentucky, and Tennessee
Cigar filler (types 41–44 and 46)	18.5	1.1	Cigars	Pennsylvania, Ohio, and Puerto Rico
Cigar binder (types 51 and 52 and 54 and 55).	17.5	1.0	Chewing tobacco and cigars.	Connecticut, Massachusetts, and Wisconsin
Cigar wrapper (type 61)	1.8	.1	Cigars	Connecticut and Massachusetts
Miscellaneous domestic, Perique (type 72)	.1	(1)	Fancy smoking blends	Louisiana

[1] Less than 0.1 percent.

Source: Compiled form official statistics of the U.S. Department of Agriculture.

As shown in table 1, the class of air-cured tobacco consists of two subgroups, light air-cured and dark air-cured. Burley is one of two types of light air-cured tobacco and is second to flue-cured in terms of production in the United States. Burley tobacco is light and papery, ranging from tan to reddish in color. It is readily combustible, and its elastic (springy) quality improves the porosity of the cigarette blend. Burley is relatively high in nicotine and substantially free of sugar. The highly absorbent character of the leaf makes it an ideal carrier for the "casing" or flavoring compounds used in the manufacture of cigarettes. Burley is slowly air-cured in freely ventilated barns, with heat used only when needed to maintain humidity in proper balance. In 1984, about 92 percent of the domestic burley used in the United States was consumed in the production of cigarettes. Marketings in recent years have averaged nearly 700 million pounds, with about 20 percent being exported.

The second type of light air-cured tobacco is Maryland. This tobacco is produced in southern Maryland and is cured under natural atmospheric conditions, usually in freely ventilated barns. Maryland tobacco is considered to have ideal burning qualities for use in cigarette blends. Production in recent years averaged 42 million pounds, of which about 20 percent was exported.

Dark air-cured tobacco is the second subgroup of air-cured tobacco. This type is medium to heavy-bodied and ranges from light to medium brown in color. It is used mainly for chewing tobacco and snuff. Production in recent years has been about 17 million pounds, and exports have amounted to about 10 percent of this total.

Fire-cured tobacco is medium to heavy in body, light to dark brown in color, and strong in flavor. It is so-called because of the smoky flavor and aroma it receives from "firing" it over open fires in barns. This tobacco is primarily used for making snuff, roll and plug chewing tobacco, and heavy smoking tobacco. Production currently amounts to around 40 million pounds annually, and more than half this production is exported.

The three cigar classes of tobacco are classified by USDA according to their traditional usage. It should be noted, however, that each class may be used in applications generally fulfilled by one or both of the other classes. With the exception of a small portion of the wrapper class (which is cured with heat), all three classes of cigar tobacco are dark air-cured.

The first such class, cigar filler, is used in the core or body of the cigar. For this purpose, the principal qualities considered desirable are flavor, aroma, and burning quality. Cigar filler produced in the United States ranges from mild to heavy in body, depending on the location of the farm. For example, that grown in Pennsylvania and Ohio is relatively mild, while that grown in Puerto Rico is medium to heavy. Marketings in recent years have averaged about 20 million pounds.

Cigar binder, the second class, was originally used for binding the bunched filler into the form and shape of the cigar. Natural leaf binders must have a good burning quality, aroma, and elasticity. However, practically all cigars now use a reconstituted tobacco sheet for the inner binder.[1] As a result, loose-leaf chewing tobacco is now the principal use for this class of tobacco. As with cigar filler, marketings have recently averaged 20 million pounds.

Cigar wrapper tobacco, the third class, is used principally as the outside cover on cigars. For this use the leaves must be elastic, free of injury, and uniform in color and have good burning qualities. The leaves should also be very thin and smooth and of fine quality. In order to protect the leaves against extremes of weather and sunlight, many fields of cigar wrapper are enclosed by a framework covered with cheesecloth, which acts as a screen. Cigar wrapper accounts for less than 1 percent of U.S. production of tobacco.

The major use for tobacco is cigarettes, and about 90 percent of the tobacco grown in the United States is used for this purpose. Three types of domestic cigarette leaf tobacco (flue-cured, burley, and Maryland) and one general type of foreign leaf (oriental)[2] are usually blended in the production of U.S. cigarettes. Although different brands of cigarettes vary in the proportions of their tobacco components, flue-cured tobacco accounts for approximately 40 to 50 percent of the tobacco used in the production of a cigarette. Burley accounts for 30 to 40 percent, Maryland for 1 to 2 percent, and oriental for 15 to 20 percent. Other uses for tobacco are cigars, snuff, chewing tobacco, and pipe smoking tobacco.

Imported tobaccos include types similar to nearly all U.S. types. However, filler tobaccos used in the production of cigarettes (flue-cured, burley, and oriental), comprise the majority of imports.

Prior investigations

The Commission has conducted two investigations since 1981 under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) with respect to imports of tobacco. In each of the investigations the Commission determined, by votes of 3-1 and 4-1, respectively, that imports of tobacco were not being and were not practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, USDA price-support programs for tobacco.

The first investigation, No. 22-43, was instituted following receipt, on January 18, 1981, of a request therefor from President Carter.[3] The investigation involved imports of tobacco provided for in items 170.3210, 170.3500, 170.6040, and 170.8045 of the Tariff Schedules of the United States Annotated (TSUSA). The Commission reported its negative finding to the President on August 4, 1981. The President took no action restricting imports.

The second investigation, No. 22-47, was instituted following receipt of a request on September 10, 1984, from President Reagan.[4] That investigation was broader in scope than the earlier one and covered imports of flue-, fire-, and dark air-cured tobacco and burley tobacco in unmanufactured form.[5] The Commission reported its negative determination in that case to the President on February 1, 1985. On July 3, 1985, the President announced that he would take no action as a result of the Commission's report.

Tariff treatment under the TSUS

The U.S. rates of duty applicable to tobacco are shown in table 2.

---

[1] Reconstituted tobacco sheet, also referred to as homogenized sheet tobacco, is made by grinding tobacco leaf and stems into fine powder and then moistening the mixture with an adherent. The mixture is then rolled into thin sheets.

[2] Oriental tobacco, also called Turkish tobacco, is not produced in the United States. There are no imports of Maryland-type tobacco.

[3] *Certain Tobacco: Report to the President on Investigation No. 22-43* . . . USITC Publication 1174, August 1981.

[4] *Certain Tobacco: Report to the President on Investigation No. 22-47* . . ., February 1985, report unpublished pending authorization from the President.

[5] Provided for in items 170.20, 170.25, 170.32, 170.35, 170.40, 170.45, 170.50, 170.60, and 170.80 of the TSUS.

The column 1 rates of duty currently in effect for leaf tobacco, the products of two or more countries (TSUS items 170.01 and 170.05), stemmed filler tobacco mixed or packed with over 35 percent wrapper tobacco (TSUS item 170.25), unstemmed oriental or Turkish type cigarette leaf (TSUS item 170.28), unstemmed filler tobacco, other than cigarette leaf (TSUS item 170.40), tobacco stems (TSUS items 170.50 and 170.55), scrap tobacco (TSUS item 170.60) and tobacco manufactured or not manufactured, not specially provided for (TSUS item 170.80) are the same rates effective prior to January 1, 1980. The current column 1 rates for wrapper tobacco (TSUS items 170.10 and 170.15), unstemmed filler tobacco mixed or packed with over 35 percent wrapper tobacco (TSUS item 170.20), stemmed cigarette leaf (TSUS item 170.35) and stemmed filler tobacco other than cigarette (TSUS item 170.45) are modifications of the pre-MTN rates resulting from concessions granted by the United States in the Tokyo round of the MTN. Wrapper tobacco (TSUS items 170.10 and 170.15) is eligible for duty-free treatment under the Generalized System of Preferences (GSP).[6]

Tariff treatment under the proposed Harmonized System

The tariff treatment of tobacco under the proposed Harmonized System (HS) is shown in table 3.

[6] The GSP under title V of the Trade Act of 1974 provides duty-free treatment to specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applied to such merchandise imported on or after Jan. 1, 1976; P.L. 98-573 extended the GSP until July 4, 1993.

TABLE 2.—FILLER TOBACCO, SCRAP TOBACCO, TOBACCO STEMS, AND TOBACCO MANUFACTURED OR NOT MANUFACTURED, NOT SPECIALLY PROVIDED FOR: U.S. RATES OF DUTY, BY TSUS ITEMS, 1980–87

[Per pound]

TSUS item No.	Article description (abridged)	Pre-MTN [1] col. 1 rate of duty [2]	Staged col. 1 [3] rates of duty effective with respect to articles entered on or after Jan. 1—								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
	Leaf tobacco, the product of two or more countries when mixed or packed together:										
170.01	Not stemmed	$2.275	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	$2.275.
170.05	Stemmed	$2.925	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	$2.925.
	Wrapper tobacco:										
170.10A	Not stemmed	90.9¢	36¢	36¢	36¢	36¢	36¢	36¢	36¢	36¢	$2.275.
170.15A	Stemmed	$1.548	62¢	62¢	62¢	62¢	62¢	62¢	62¢	62¢	$2.925.
	Filler tobacco mixed or packed with over 35 percent wrapper:										
170.20	Not stemmed	90.9¢	36¢	36¢	36¢	36¢	36¢	36¢	36¢	36¢	$2.275.
170.25	Stemmed	$1.548	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	$2.925.
	Filler tobacco not mixed and not packed with wrapper tobacco, or mixed or packed with 35 percent or less of wrapper tobacco:										
	Cigarette leaf:										
	Not stemmed:										
170.28	Oriental or turkish type	11.5¢	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	35¢.
170.32	Other than oriental or Turkish type	12.75¢	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	35¢.
170.35	Stemmed	45¢	41¢	38¢	35¢	32¢	29¢	26¢	23¢	20¢	50¢.
	Other filler tobacco including cigar leaf:										
170.40	Not stemmed	16.1¢	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	35¢.
170.45	Stemmed	23¢	20¢	20¢	20¢	20¢	20¢	20¢	20¢	20¢	50¢.
	Tobacco stems:										
170.50	Not cut, not ground, and not pulverized	Free	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	Free.
170.55	Cut, ground, or pulverized	55¢	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	55¢.
170.60	Scrap tobacco	16.1¢	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	35¢.
170.80	Tobacco, manufactured or not manufactured not specially provided for	17.5¢	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	55¢.

[1] Multilateral Trade Negotiations (MTN).
[2] Rate effective prior to Jan. 1, 1980.
[3] The rates of duty in col. 1 are most-favored nation rates, and are applicable to imported products from all countries except those Communist countries enumerated in general headnote 3(f) of the TSUS, to which the col. 2 rates of duty apply.
[4] Rate not modified in the Tokyo round of the MTN.

Source: Compiled from the Tariff Schedules of the United States.

Note.—The designation "A" indicates that the item is currently designated as an eligible article for duty-free treatment under the U.S. Generalized System of Preferences and that all beneficiary developing countries are eligible for the GSP.

TABLE 3.—TOBACCO: HARMONIZED SYSTEM RATES OF DUTY, BY HS COMMODITY NUMBER

[Per kilogram]

HS commodity code number	Article description (abridged)	Rates of duty	
		Col. 1[1]	Col. 2
	Unmanufactured tobacco; tobacco waste:		
	Tobacco, not stemmed:		
2401.10.20	Containing over 35 percent wrapper tobacco	79.4¢	$5.02.
	Not containing wrapper tobacco, or not containing over 35 percent wrapper tobacco:		
	Cigarette leaf:		
2401.10.40	Oriental or Turkish type	25.4¢	77.2¢.
2401.10.60	Other	28.1¢	77.2¢.
2401.10.80	Other, including cigar leaf	35.5¢ + 43.9¢ on wrapper tobacco content.	77.2¢ + $4.25 on wrapper tobacco content.
	Tobacco, partly or wholly stemmed:		
	Not threshed or similarly processed:		
2401.20.20	Containing over 35 percent wrapper tobacco.	$1.37 + $2.04 on filler tobacco content.	$6.45.
2401.20.40	Not containing wrapper tobacco, or not containing over 35 percent wrapper tobacco.	44.1¢ + 92.9¢ on wrapper tobacco content.	$1.10 + $5.35 on wrapper tobacco content.
	Threshed or similarly processed:		
2401.20.60	From cigar leaf	35.5¢	77.2¢.
2401.20.80	Other	44.1¢	$1.10.
	Tobacco waste:		
	Tobacco stems:		
2401.30.30	Not cut, not ground, and not pulverized.	Free	Free.
2401.30.60	Cut, ground or pulverized	$1.21	$1.21.
2401.30.90	Other	35.5¢	77.2¢.

[1] Represents the "General" col. 1 rate.

Domestic production and structure of industry

During 1980–84, annual U.S. production of tobacco averaged 1.8 million pounds, valued at $3.0 billion; in 1984, production was an estimated 1.7 billion pounds with an estimated $3.0 billion value (table 4). Flue-cured tobacco accounted for 50.9 percent of production (by quantity) in 1984, followed by burley (40.2 percent), fire-cured (3.2 percent), Maryland (2.3 percent), dark air-cured (1.1 percent), cigar binder (1.1 percent), cigar filler (1.0 percent), and cigar wrapper (0.1 percent). The major area of production of tobacco is the Southeastern United States. Leading producing States include: North Carolina (flue-cured); Kentucky (burley, dark air-cured, and fire-cured), South Carolina (flue-cured), Georgia (flue-cured), Virginia (flue-cured) and Tennessee (burley and fire-cured).

Many U.S. tobacco producers grow other agricultural crops or raise livestock for the commerical market. USDA estimates that flue-cured tobacco is produced by about 45,000 farmers, burley by about 150,000 farmers, fire-cured and dark air-cured each by about 14,000 farmers, cigar tobaccos by about 5,000 farmers, and Maryland-type tobacco by less than 2,500 farmers. In general the number of tobacco producers has declined in recent years and USDA predicts a continuance of this trend.

TABLE 4.—UNMANUFACTURED TOBACCO: U.S. PRODUCTION, BY SPECIFIED TOBACCO TYPES AND TOTAL, 1980–84 [1]

Tobacco type	1980	1981	1982	1983	1984
	Quantity (million pounds-farm-sales weight)				
Flue-cured [2]	1,086.1	1,144.3	993.8	857.8	849.6
Burley [2]	557.5	725.6	776.7	526.7	671.5
Fire-cured	36.2	37.6	53.2	37.1	53.6
Maryland	26.2	46.4	42.0	37.4	38.9

TABLE 4.—UNMANUFACTURED TOBACCO: U.S. PRODUCTION, BY SPECIFIED TOBACCO TYPES AND TOTAL, 1980–84 [1]—Continued

Tobacco type	1980	1981	1982	1983	1984
Dark air-cured	16.6	16.4	20.6	14.7	18.1
Cigar binder	28.6	29.8	23.6	19.2	17.6
Cigar filler	28.6	30.4	25.2	16.9	17.4
Cigar wrapper	4.5	4.1	1.6	1.7	1.8
Total	1,784.3	2,034.6	1,936.7	1,508.5	1,668.5
	Value (million dollars)				
Flue-cured [2]	1,569	1,904	1,774	1,521	1,539
Burley [2]	925	1,311	1,406	934	1,259
Fire-cured	44	61	83	67	[3] 66
Maryland	44	73	62	40	[3] 47
Dark air-cured	21	22	25	22	[3] 19
Cigar binder	37	35	27	22	[3] 20
Cigar filler	25	25	19	14	[3] 14
Cigar wrapper	44	41	20	19	[3] 20
Total	2,709	3,472	3,416	2,639	[3] 2,983

[1] Crop years basis.
[2] Marketings.
[3] Estimated by the staff of the U.S. International Trade Commission.

Source: Compiled from official statistics of the U.S. Department of Agriculture, except as noted.

U.S. imports

During 1980–84, U.S. imports of unmanufactured tobacco rose irregularly by 5.6 percent from 394 million pounds, valued at $427 million, in 1980 to 416 million pounds, valued at $558 million, in 1984 (table 5). Import data relating to the individual types of tobacco are not available; however, USDA annually estimates the quantity of imports for flue-cured and burley tobacco. During 1980–84, the USDA estimates that imports of flue-cured tobacco (year beginning July 1) increased from 84.8 million pounds to 94.4 million pounds and burley tobacco imports (year beginning October 1) increased from 113.6 million pounds to 135.0 million pounds. The leading foreign suppliers of tobacco in 1984, and their respective shares (by value and predominant tobacco types) were Turkey (31 percent-oriental), Brazil (13 percent-flue-cured and burley), and Greece (10 percent-oriental).

TABLE 5.—UNMANUFACTURED TOBACCO: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Turkey	114,293	107,861	113,174	119,071	112,329
Brazil	48,573	63,118	67,074	116,757	64,413
Greece	26,019	34,392	32,638	37,948	31,001
Yugoslv	13,127	13,654	10,232	10,404	13,594
Guatmal	4,816	7,367	3,556	8,000	15,249
Canada	11,118	8,510	16,090	18,796	16,013
Bulgar	10,498	12,655	12,264	17,131	11,686
Hondura	3,700	7,448	3,762	8,966	11,503
All other	161,651	181,845	147,356	190,215	140,343
Total	393,795	436,849	406,147	527,288	416,132
	Value (1,000 dollars)				
Turkey	140,256	130,237	141,793	175,886	172,573
Brazil	40,063	63,339	76,577	161,490	74,778
Greece	41,252	49,400	56,368	68,967	54,718

TABLE 5.—UNMANUFACTURED TOBACCO: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84—Continued

Source	1980	1981	1982	1983	1984
Yugoslv	20,566	20,405	16,748	18,074	23,786
Guatmal	4,186	9,130	6,048	14,133	22,961
Canada	15,000	10,924	22,430	25,159	19,256
Bulgar	14,522	18,208	17,666	25,835	18,549
Hondura	4,865	9,922	5,963	16,488	18,524
All other	146,482	177,526	157,294	237,492	152,952
Total	427,191	489,091	500,886	743,525	558,098
	Unit value (per pound)				
Turkey	$1.23	$1.21	$1.25	$1.48	$1.54
Brazil	0.82	1.00	1.14	1.38	1.16
Greece	1.59	1.44	1.73	1.82	1.77
Yugoslv	1.57	1.49	1.64	1.74	1.75
Guatmal	0.87	1.24	1.70	1.77	1.51
Canada	1.35	1.28	1.39	1.34	1.20
Bulgar	1.38	1.44	1.44	1.51	1.59
Hondura	1.31	1.33	1.58	1.84	1.61
All other	0.91	0.98	1.07	1.25	1.09
Average	1.08	1.12	1.23	1.41	1.34

Source: Compiled from official statistics of the U.S. Department of Commerce.

In 1984, 2.1 million pounds of wrapper tobacco (the only tobacco article eligible for GSP treatment) valued at $9.3 million, was entered duty-free under the GSP. The leading suppliers were the Cameroons (31 percent), Nicaragua (24 percent), and Honduras (19 percent). USDA reports that in 1984 about 11 percent of total tobacco imports were from CBI countries. Column 2 imports are negligible.

Tobacco dealers and cigarette manufacturers are the major tobacco importers. There are 7 major domestic tobacco dealers and about 40 minor dealers, located primarily in Virginia, North Carolina, and Kentucky. Six major cigarette manufacturers account for more than 99 percent of U.S. cigarette production and either import tobacco themselves and/or arrange with independent dealers for the tobaccos required for their cigarette blends.

Names and addresses of principal importers follow:

Universal Leaf Tobacco Company
P.O. Box 25099
Richmond, VA 23260

R.J. Reynolds Tobacco Co.
401 North Main Street
Winston-Salem, NC 27102

Philip Morris International
P.O. Box 26603
Richmond, VA 23261

Dibrell Brothers, Inc.
P.O. Box 137
Greenville, NC 27834

G.F. Vaughan Tobacco Company
P.O. Box 160
Lexington, KY 40501

A.C. Monk & Co. Inc.
Farmville, NC 27828

American Tobacco Co.
245 Park Ave.
New York, NY 10017

U.S. exports

During 1980–84, U.S. exports of unmanufactured tobacco declined by 9.4 percent from 596 million pounds, valued at $1.3 billion, to 540 million pounds, valued at $1.5

billion (table 6). Japan was the leading export markets in 1984, accounting for 19 percent of the export value. Other major markets were West Germany (12 percent) and Spain (11 percent). In 1984, the great majority of the export (94 percent) consisted of filler tobaccos, of which the most important types were flue-cured (77 percent) and burley (17 percent) (table 7-9). The names and addresses of exporters are not available; however, trade sources indicate tobacco dealers are the major exporters.

Apparent U.S. consumption

During 1980–84, apparent U.S. consumption of unmanufactured tobacco trended down, averaging 1,453 million pounds annually; in 1984, consumption amounted to 1,379 million pounds (table 10).

TABLE 6.—UNMANUFACTURED TOBACCO: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Japan	82,138	116,983	110,319	114,177	92,115
Fr Germ	100,649	83,133	68,150	57,975	65,981
Spain	28,675	33,389	31,828	40,216	52,500
Italy	30,657	26,489	28,073	32,195	31,250
U King	32,470	39,426	30,651	27,780	31,810
Egypt	17,406	16,094	21,955	21,643	37,305
China	14,116	22,266	21,279	19,946	25,121
Nethlds	44,920	28,584	25,071	28,218	22,226
All other	245,028	215,632	232,528	180,343	181,891
Total	596,058	581,997	569,856	522,495	540,199
	Value (1,000 dollars)				
Japan	197,159	301,698	309,920	338,480	285,979
Fr Germ	215,373	198,286	179,363	150,682	177,857
Spain	61,186	82,866	96,480	128,650	169,189
Italy	65,307	63,091	74,769	88,928	89,927
U King	78,236	94,765	74,943	72,585	83,147
Egypt	30,466	28,825	41,472	40,615	72,862
China	37,013	62,925	58,167	50,732	64,857
Nethlds	94,440	63,309	60,782	72,170	64,374
All other	547,266	553,427	642,682	512,898	494,941
Total	1,326,446	1,449,193	1,538,779	1,455,740	1,503,132
	Unit value (per pound)				
Japan	$2.40	$2.58	$2.81	$2.96	$3.10
Fr Germ	2.14	2.39	2.63	2.60	2.70
Spain	2.13	2.48	3.03	3.20	3.22
Italy	2.13	2.38	2.66	2.76	2.88
U King	2.41	2.40	2.45	2.61	2.61
Egypt	1.75	1.79	1.89	1.88	1.95
China	2.62	2.83	2.73	2.54	2.58
Nethlds	2.10	2.21	2.42	2.56	2.90
All other	2.23	2.57	2.76	2.84	2.72
Average	2.23	2.49	2.70	2.79	2.78

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 7.—FILLER TOBACCO: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Japan	62,313	87,291	83,358	90,678	78,991
Fr Germ	90,104	70,944	58,219	47,780	56,157
Spain	25,614	31,792	30,890	35,536	45,833
Italy	30,253	26,269	26,823	32,295	30,074
U King	26,296	31,255	24,696	22,516	25,663
Egypt	14,039	12,896	17,198	16,693	28,847
China t	14,116	22,266	19,504	17,463	22,925
Switzld	16,311	20,880	25,845	16,690	19,289
All other	235,247	192,048	204,177	166,323	148,691
total	514,293	495,640	490,710	445,874	456,469
	Value (1,000 dollars)				
Japan	194,878	297,762	306,633	335,417	284,154
Fr Germ	210,672	192,639	171,434	143,020	171,942
Spain	53,984	79,416	93,880	112,627	145,584
Italy	65,188	63,038	71,314	88,928	89,704
U King	69,027	88,584	73,500	71,739	81,989
Egypt	29,308	25,635	38,675	39,078	66,916
China t	37,013	62,925	57,899	50,363	64,514
Switzld	38,968	56,753	76,748	52,130	58,704
All other	565,582	524,906	600,550	503,688	455,349
total	1,264,620	1,391,657	1,491,043	1,396,989	1,418,856
	Unit value (per pound)				
Japan	$3.13	$3.41	$3.68	$3.70	$3.60
Fr Germ	2.34	2.72	2.94	2.99	3.06
Spain	2.11	2.50	3.04	3.17	3.18
Italy	2.15	2.40	2.66	2.76	2.98
U King	2.62	2.83	2.98	3.19	3.19
Egypt	2.09	1.99	2.25	2.34	2.32
China t	2.62	2.83	2.97	2.88	2.81
Switzld	2.39	2.72	2.97	3.12	3.04
All other	2.40	2.73	2.94	3.03	3.06
Average	2.46	2.81	3.04	3.13	3.11

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 8.—FILLER TOBACCO, FLUE-CURED: EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Japan	52,677	73,699	66,029	64,316	68,072
Spain	23,176	28,087	27,161	32,568	41,080
Fr Germ	63,087	51,175	36,576	32,720	41,390
U King	24,898	30,296	22,732	22,333	25,094
China t	14,075	22,266	19,504	17,463	22,925
Italy	19,706	14,675	14,714	17,361	17,457
Egypt	12,225	12,328	14,588	12,303	20,891
Switzld	9,062	9,144	10,284	4,334	13,229
All other	172,144	144,556	136,846	107,193	99,655
Total	391,051	386,224	348,404	310,592	349,793

TABLE 8.—FILLER TOBACCO, FLUE-CURED: EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84—Continued

Market	1980	1981	1982	1983	1984
	Value (1,000 dollars)				
Japan	164,994	252,241	242,048	235,422	243,475
Spain	49,217	68,389	79,118	102,056	128,661
Fr Germ	144,301	136,887	105,289	95,271	124,286
U King	65,310	85,494	67,527	71,116	80,272
China t	36,993	62,925	57,899	50,363	64,514
Italy	43,847	36,823	40,423	50,169	50,294
Egypt	25,818	24,662	33,215	28,754	47,864
Switzld	21,395	22,771	28,837	13,425	38,612
All other	417,545	395,014	398,958	326,605	309,090
Total	969,420	1,085,207	1,053,315	973,181	1,087,066
	Unit value (per pound)				
Japan	$3.13	$3.42	$3.67	$3.66	$3.58
Spain	2.12	2.43	2.91	3.13	3.13
Fr Germ	2.29	2.67	2.88	2.91	3.00
U King	2.62	2.82	2.97	3.18	3.20
China t	2.63	2.83	2.97	2.88	2.81
Italy	2.23	2.51	2.75	2.89	2.88
Egypt	2.11	2.00	2.28	2.34	2.29
Switzld	2.36	2.49	2.80	3.10	2.92
All other	2.45	2.73	2.92	3.05	3.10
Average	2.48	2.81	3.02	3.13	3.11

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 9.—FILLER TOBACCO, BURLEY: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Fr Germ	24,080	17,604	19,841	12,246	12,559
Japan	9,633	13,593	17,328	26,354	10,919
Italy	10,381	11,504	11,999	14,542	11,766
Egypt	1,199	265	1,473	3,483	7,543
Thailand	7,591	3,629	8,744	2,460	4,734
Phil R	3,282	3,693	6,861	5,751	3,586
Switzld	2,316	6,943	10,199	7,115	3,370
Belgium	832	763	3,222	2,280	2,791
All other	31,487	16,161	23,977	16,598	16,322
Total	90,801	74,154	103,646	90,831	73,589
	Value (1,000 dollars)				
Fr Germ	60,867	50,428	61,268	39,078	40,910
Japan	29,877	45,521	64,585	99,976	40,679
Italy	20,945	25,983	30,593	37,945	37,406
Egypt	2,648	463	3,574	8,447	18,348
Thailand	18,185	10,082	25,163	7,507	15,103
Phil R	9,017	12,484	26,024	23,806	13,149
Switzld	6,063	20,378	31,537	22,943	12,171
Belgium	2,006	1,827	10,072	6,858	9,715
All other	84,040	48,312	72,651	53,438	54,256
Total	233,647	215,478	325,468	299,998	241,738

TABLE 9.—FILLER TOBACCO, BURLEY: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84—Continued

Market	1980	1981	1982	1983	1984
	Unit value (per pound)				
Fr Germ	$2.53	$2.86	$3.09	$3.19	$3.26
Japan	3.10	3.35	3.73	3.79	3.73
Italy	2.02	2.26	2.55	2.61	3.18
Egypt	2.21	1.75	2.43	2.43	2.43
Thailand	2.40	2.78	2.88	3.05	3.19
Phil R	2.75	3.38	3.79	4.14	3.67
Switzld	2.62	2.94	3.09	3.22	3.61
Belgium	2.41	2.40	3.13	3.01	3.48
All other	2.67	2.99	3.03	3.22	3.32
Average	2.57	2.91	3.14	3.30	3.28

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 10.—UNMANUFACTURED TOBACCO: U.S. PRODUCTION, EXPORTS, IMPORTS, AND APPARENT CONSUMPTION, 1980–84

[Quantity in millions of pounds-dry weight]

Year	Production	Exports	Imports	Apparent consumption [1]	Ratio (percent) of imports to consumption
1980	1,609	602	430	1,455	30
1981	1,858	586	518	1,629	32
1982	1,795	575	536	1,567	34
1983	1,285	527	461	1,235	37
1984	1,479	529	440	1,379	32

[1] Adjusted for stock changes.

Source: Compiled from official statistics of the Foreign Agricultural Service of the U.S. Department of Agriculture.

During 1980–84, the ratio of imports to consumption ranged from 30 percent in 1980 to 37 percent in 1983. The ratio in 1984 was 32 percent.

Effect on revenue

The potential annual revenue gain or loss cannot be estimated.

Technical comments

H.R. 1022 would prohibit the importation of tobacco which has been grown or processed using pesticides and other chemicals whose use has been prohibited in this country for health reasons. However, it is unclear which tobacco items (when entered and classified in the TSUS) would be covered by the legislation. Certain tobaccos have undergone preliminary processing (stemmed leaf) while others are by-products of the manufacturing process (scrap or stems) and still others are manufactured products (such as cigarettes and cigars). The intended legislation does not specify which of these items will be subject to the inspection.

Presently, in order for U.S. tobacco farmers to receive price support for their crop they are required to sign a document indicating they have not used any chemical which has not been approved for use on tobacco by the United States Environmental Protection Agency. USDA officials report that in 1985 tobacco under price support will be selectively tested for residues of the prohibited chemicals. However, about 4 percent of annual U.S. tobacco production is not under USDA's price support program and therefore, would not be subject to the selective testing.

GATT considerations

While the bill if enacted would require the Secretary of Agriculture to prohibit entry of tobacco not accompanied by an appropriate certificate and would require

the Secretary to fix and collect certain fees and charges from importers in order to cover the costs of services provided under the certification program, neither requirement appears to raise a GATT problem. Article XX of the GATT, which sets forth certain exceptions to the agreement, permits a contracting party, notwithstanding other provisions of the agreement, to take measures "necessary to protect human, animal or plant life or health". Article VIII, which sets forth rules relating to fees and formalities with respect to importation and exportation, permits a contracting party to levy fees and charges "limited in amount to the approximate cost of services rendered", provided that such fees and charges do "not represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes."

STATEMENT OF NORMAN F. SHARP, PRESIDENT, CIGAR ASSOCIATION OF AMERICA

SUMMARY

The Cigar Association of America opposes H.R. 1022 because:

I. There is no factual basis to believe that there are any health, safety or environmental problems arising from use of pesticides banned in the United States which require passage of H.R. 1022.

II. It is inappropriate to assess a fee against cigar tobacco importers for complying with a statutory certification requirement.

Enforcing the certification program is not a service to importers but a benefit to the general populace, therefore the costs of enforcing the program should be paid by the general populace and not just those subject to it.

Assessment of a fee to pay for enforcement of a mandatory program conflicts with the United States' international obligations, notably Article VIII of GATT.

STATEMENT

The Cigar Association of America* opposes H.R. 1022, which would require that all tobacco imported into the United States be accompanied by the importer's certification that the tobacco was not produced using pesticides that have been barred from use in the United States. Tobacco not accompanied by such certification would not be permitted entry. In addition, importers would be charged a fee to cover the Department of Agriculture's costs of assuring compliance with the program.

I. There is no factual basis to believe that there are any health, safety or environmental problems arising from pesticides used on imported cigar tobacco which require a certification program

The Cigar Association is unaware that there are any health, safety or environmental problems arising from the importation of cigar tobacco produced with pesticides banned in the United States. In fact, all countries permit fewer different pesticides to be used on tobacco than does the United States. The Cigar Association is ready to cooperate on viable program to eliminate such problems if they are shown to exist. However, it appears that H.R. 1022 addresses—at some expense to the importer—a problem that is more theoretical than real.

II. It is inappropriate to assess a fee against cigar tobacco importers for complying with a statutory certification requirement

H.R. 1022 directs the Secretary of Agriculture to collect fees and charges from tobacco importers to cover the costs of the "Secretary's services" in insuring compliance with the certification program. This characterization of the enforcement of a mandatory program as providing a service disguises the true nature of H.R. 1022's certification program. To the extent certification of the nonuse of pesticides serves a valid purpose, it promotes the general welfare of the United States. As a matter of domestic policy and international trade policy, programs of this nature should not be funded by fees assessed against importers.

H.R. 1022 designates the Secretary of Agriculture as the enforcer of the pesticide certification program. As such, he is no more providing a service to the importers required to certify the nonuse of banned pesticides on their tobacco than is the Internal Revenue Service providing a service to a taxpayer when it accepts (and, perhaps, audits) his tax return. Similarly, auto manufacturers ar not provided a service when they are required to comply with federal safety certification requirements nor

---

*The Cigar Association of America is a non-profit organization representing manufacturers of 95% of domestically-produced cigars, as well as suppliers, importers and distributors of cigars.

are importers provided a service when they are required to submit certain entry documents to the Customs Service. In each of these cases, the benefit of the government's action—the "service" provided—accrues to the population as a whole and not to the individual subjected to it. Recognizing this, Congress has determined that the costs of enforcing such laws should be borne by general revenues and not charges on individuals. Because it benefits the entire population and not the tobacco importer, the cost of the pesticide certification program should similarly be borne by general revenues and not by the individual importers subject to it.

International trade policy also dictates that importers not be charged for enforcing their compliance with this mandatory certification requirement. Article VIII of GATT states clearly that—". . . fees and charges, other than duties imposed by governmental authorities on or in connection with importation . . . should be limited in amount to the approximate cost of *services* rendered and should not represent an indirect protection to domestic products or a taxation of imports . . . for fiscal purposes." (Emphasis added.)

H.R. 1022 conflicts with this provision in several respects. First, the enforcement of certification requirements is not a service to the importer. Therefore, any charge to cover enforcement costs exceeds the costs of services rendered. Second, because any fees charged to importers to pay for enforcement would merely negate the need for expenditures properly made from general revenues, the fees are clearly taxes on imports for fiscal purposes. Finally, charging fees to importers for a mandatory program raises the cost of imported tobacco relative to the cost of domestic tobacco. This constitutes indirect protection of a domestic product. It is worth noting as well that H.R. 1022 conflicts with the GATT's statement of policy on service fees, which recognizes "the need for reducing the number and complexity of such fees." In light of these conflicts with GATT, H.R. 1022 would risk retaliation against U.S. tobacco or general agricultural exports.

The certification program would also contribute to the economic difficulties of an already distressed industry. Cigar sales have been declining steadily for years, reaching a 100-year low in 1983. Industry experience has shown a distinct resistance by cigar consumers to price increases, a resistance not found in other tobacco products. This resistance limits the industry's ability to increae prices to cover increased costs. The compliance with the certification requirement would increase costs and thereby contribute to the industry's existing problems. Charging a fee for compliance is an unjustified additional burden which would of course raise costs still higher and exacerbate the problem.

LEAF TOBACCO EXPORTERS ASSOCIATION, INC.,
Raleigh, NC, June 11, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In your Subcommittee release of May 16, 1985, you requested written testimony for the record from interested parties relative to a number of miscellaneous tariff and trade bills which were listed in your release.

We would like to present our views to you relative to H.R. 1022 (Mr. Boucher, Mr. Heftel of Hawaii, et al.): To Amend the AAA of 1938 to prohibit the importation of tobacco which has been grown or processed using pesticides and other chemicals whose use has been prohibited in this country for health reasons.

The members of the trade associations which I represent, Leaf Tobacco Exporters Association and Tobacco Association of United States, purchase about 70 percent of U.S. tobacco crops and export most all U.S. tobacco shipped overseas.

A list of the members of LTEA and members and associate members of TAUS is attached (Attachment A).

Our associations are opposed to H.R. 1022 for the following reasons:

(a) It is the purpose of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) to control use of substances if the application of these substances is demonstrated to have a deleterious effect on the environment. The proposed legislation (H.R. 1022) is inconsistent with the intent of the FIFRA. Inasmuch as the presence of these chemicals on imported products has substantially no environmental effect, the FIFRA should not be applied to the sale of products with residual levels of pesticides.

(b) Each lot of imported tobacco would have to be inspected by USDA to test the tobacco for pesticides. This would be a deterrent to free trade and does nothing more than harass the importer.

(c) DDT is approved for use in New Zealand; however, New Zealand exports *no* leaf or products. Aldrin is approved for use in Tanzania; however, the U.S. imports no leaf or products from Tanzania. EDB is approved for use in Australia, Tanzania, Zambia and Zimbabwe. We only import from Zimbabwe and we understand that they plan to drop the use of EDB for tobacco.

(d) If we get into a trade war based on pesticide residues, the U.S., which has approved three times as many pesticides for use on tobacco as any other country, could be the big loser. For example, Canada prohibits the use of maleic hydrozide on tobacco and Germany and the EC have considered limiting the ppm for MH or banning its use on tobacco. If such steps were taken as a retaliation measure, it could seriously affect our exports of tobacco.

(e) Tests have been conducted for residues of chlorinated hydrocarbon insecticides (See Attachment B) in tobacco products. Results indicated that the products contained only small detectable residues. Pesticide experts indicate that such levels do not pose a toxicological hazard to consumers.

(f) The proposed bill would be a non-tariff barrier and contrary to our obligations under the GATT. It could result in retaliation by our trading partners and thus a decline in U.S. agricultural exports.

(g) The bill, which is protectionist in nature, is contrary to U.S. trade policy which favors an open international trading system.

A summary of our comments is indicated in Attachment C.

We urge that H.R. 1022 not be approved by your Subcommittee or the House of Representatives.

Sincerely yours,

HUGH C. KIGER,
Executive Vice President.

Enclosures.

(Attachment A has been retained in the committee files.)

ATTACHMENT B

Pesticides Used on Tobacco[1/]

T. J. Sheets

North Carolina State University

Adequate data on the kinds of pesticides used on tobacco and on the residues remaining after use of different pesticides are of great importance for a critical review and consideration of the bill recently introduced in the US Senate "to prohibit importation of tobacco which as been grown or processed using pesticides and other chemicals whose use has been prohibited in this country for health reasons...." (Senate Bill 67, Congressional Record, Senate, January 3, 1985). An extensive data base on pesticide residues in tobacco and tobacco products generated over the last 20 years will help satisfy this need. Also, over the last 2 years, the Tobacco Industry Technical Committee, chaired by Dr. Preston H. Leake, has developed a list of pesticides used in the production and processing of tobacco in different countries around the world. This list is now being maintained in the Pesticide Residue Research Laboratory, N.C. State University.

My objective today is to tell you about the list, to point out some of the things it shows, and then to summarize briefly the present status of pesticide residues in US tobacco and tobacco products. As an employee of N.C. State University, I serve all segments of the tobacco industry, and by comments and presentation of data, I intend to infer no bias for or against Senate Bill 67.

The list of pesticides compiled by the Industry Technical Committee covers 51 countries and identifies pesticides by common name and Chemical Abstracts Registry number. Further, the list assigns each pesticide to one or more categories (Table 1).

Table 1. Categories for pesticides in list

Category Code	Description
0	Not identified by ITC
1	Registration canceled or suspended for use on tobacco in U.S.
2	Pesticide not registered for use on tobacco in the U.S.
3	Pesticide registered for use on tobacco in the U.S.
4	Pesticide under "Special Review" or "RPAR" in the U.S.

[1/] Presented at the Midwinter Meeting of the Board of Governors, Tobacco Association of the United States, Pinehurst, NC, March 1-3, 1985.

The list has been updated and expanded several times since it was started. this is a continuing process. According to the best information available to committee members and others who contributed, the list includes those pesticides approved for use on tobacco in the 51 countries.

The list shows that about three times as many pesticides are approved for all phases of tobacco production and storage in the united States, El Salvador, and Guatemama than in Canada, the country that ranks second in number of pesticides approved for tobacco (Table 2). El Salvador and Guatemala have simply adopted the use of those pesticides approved for tobacco in the United States. A careful perusal of the complete list shows limited use of pesticides that have been suspended and(or) canceled on tobacco in the U.S. DDT is approved for use in New Zealand, aldrin in Tanzania, and EDB in Australia, Tanzania, Zambia, and Zimbabwe. It is important to note that EDB was only recently dropped for use in the U.S. and some delay in updating lists obviously occurs.

Table 2. Number of pesticides approved for use on tobacco

Country	Number of pesticides
United States	96
Canada	38
Zimbabwe	30
Greece	26
Brazil	22
Turkey	18
Italy	17
Thailand	17

Other interesting points can be made from the list. For example, seven pesticides that are approved for tobacco in Canada are not approved for tobacco in the U.S. (Table 3); but of the seven, six of them are registered by the U.S. Environmental Protection Agency (US-EPA) for some other use. All eleven pesticides approved for use on tobacco in Zimbabwe and not in the U.S. are registered for some other use in the U.S.

Table 3. Numbers of pesticides used on tobacco in seven countries that are not approved for tobacco in the U.S. but are cleared for some use.

Country	Not approved for tobacco in the US	Approved for some use in US
Canada	7	6
Zimbabwe	11	11
Greece	4	3
Brazil	6	4
Turkey	5	3
Italy	3	3
Thailand	6	2

In Table 4 are the names of 14 pesticides that still appear on the computer printout of pesticides registered for use on tobacco in the United States, but none are on the approved list for any other country (except of course for El Salvador and Guatelama).

Table 4. Pesticides on EPA list for tobacco in the US but not used on tobacco in any other countries[1/]

Allyl alcohol	Ethephon
Arsenate, calcium	Fonophos
Arsenate, lead	Flumetralin
Chlorpropham	Hydrogen Cyanide
Demeton	Penar
Dibutyl phthalate	Perfluidone
Ethanol	Oryzalin

1/ Except El Salvador and Guatemala, which simply adopted the US approved pesticides.

The Special Reviews and RPAR (Rebuttable Presumption Against Registration) are continuing programs of the US-EPA to evaluate potential hazards of pesticides. The pesticides currently under Special Review and RPAR by EPA are listed in Table 5. The tabulation shows those that are approved for use on tobacco in the US and also the number of other countries where those pesticides are currently approved for use on tobacco.

Table 5. Pesticides under RPAR and Special Review by US-EPA, their use on tobacco in the US, and the number of other countries where they are presently used on tobacco.

Pesticide	Approved for tobacco in US	Number of other countries where used on tobacco
Acephate	yes	20
Aldicarb	yes	6
Captan	yes	4
DDVP	yes	9
EBDC	yes	30
Lindane	yes	3
Benomyl	No	8
Dinocap	No	5
Metolachlor	No	1

The list of pesticides by countries is being entered into a computer where it will be updated as new information becomes available. In the near future we hope to have the list confirmed by a knowledgeable expert from each country.

We analyzed tobacco samples from the 1976 US crop for TDE, DDT, toxaphene, endrin, and dieldrin (Table 5). Analyses for those pesticides were discontinued at that time because residues were low, and the levels did not appear to pose a significant toxicological hazard to consumers. There was a low but significant average residue (0.13 ppm) of total DDT (TDE + DDT) in flue-cured tobacco. The TDE + DDT residue in dark fire cured tobacco averaged 0.56 ppm; this tobacco type also contained detectable levels of toxaphene, endrin, and dieldrin. Dark air cured contained 4.3 ppm of toxaphene.

Table 6. Insecticide residues in 1976 tobacco from auction markets

Tobacco type	TDE + DDT (ppm)	TOX (ppm)	Endrin (ppm)	Dieldrin (ppm)
Flue-cured	0.13	0.3	<0.01	0.02
Burley	<0.06	<0.2	<0.01	<0.01
Dark air cured	<0.06	4.3	<0.01	<0.01
Dark fire cured	0.56	0.2	0.34	0.06
Light air cured	<0.06	<0.2	<0.01	<0.01
Sun cured	<0.06	<0.2	<0.01	<0.01

We have continued to monitor US tobacco products for residues of chlorinated hydrocarbon insecticides. The data in Table 7 show that in 1984 cigarettes, cigars, pipe tobacco, and chewing tobacco contained detectable residues of TDE + DDT.

Table 7. Insecticide residues in 1984 US tobacco products

Product	TDE + DDT (ppm)	TOX (ppm)	Endrin (ppm)	Dieldrin (ppm)
Cigarettes	0.14	<0.3	<0.02	<0.02
Cigars	1.95	<0.3	0.05	<0.02
Pipe tob.	0.22	<0.3	0.03	<0.02
Chewing tob.	0.16	<0.3	<0.02	<0.02
Snuff	<0.12	<0.3	<0.02	<0.02

The average level of TDE + DDT was greatest for cigars and may reflect a greater use of imported tobacco in cigars than in other tobacco products. Low but significant residues of endrin were found in some brands of cigars and pipe tobacco.

The monitoring program for pesticides in tobacco and tobacco products at N.C. State University has been expanded in the last two years to include several pesticides not heretofore considered in our tests.

Attachment C

Summary of Comments Relating to H.R. 1022

1. Our Associations are strongly opposed to this Bill.

2. The presence of pesticides on imported products has substantially no environmental effect, the FIFRA should not be applied to the sale of products with residual levels of pesticides.

3. If we get into a trade war based on pesticide residues the U.S. could be the big loser.

4. Tests on tobacco products here indicate that the small detectable residues of chlorinated hydrocarbon insecticides do not pose a toxilogical hazard to consumers.

5. The proposed bill is a non-tariff barrier and contrary to our obligations under GATT.

6. The bill is protectionist and contrary to U.S. trade policy.

H.R. 1033

To prohibit the importation of certain products of Australia and New Zealand

See statement of American Farm Bureau Federation, Paul A. Drazek, under H.R. 110.

U.S. International Trade Commission

Section-by-section analysis

This legislation, drafted as one section, would prohibit the importation of the following products of Australia: beef and veal (provided for in Tariff Schedules of the United States (TSUS) items 106.10 and 107.40 through 107.63, inclusive); lamb meat (provided for in TSUS items 106.30, 107.70, and 107.76); skins bearing wool (provided for in TSUS item 123.00); wool (however provided for in subpart C of part 1 of schedule 3); and uranium ore (provided for in TSUS item 601.57). It would also prohibit the importation of lamb meat, skins bearing wool, and wool (all provided for in the above specified TSUS items) if products of New Zealand.

Background and justification

Description and uses.—The proposed legislation would cover virtually all U.S. imports of beef and veal from Australia. The majority of such imports consist of lean, grass-fed beef used for manufacturing into stews, frozen dinners and other food products. Such beef is comparable to domestic beef derived from grass-fed and cull cattle but is not comparable to the bulk of U.S. beef, which is graded "Prime" and "Choice" and is derived from grain-fed cattle.

The import ban would also cover lamb meat from Australia and New Zealand, the greater part of which are frozen lamb cuts. Australia and New Zealand lamb meat is derived from grass fed lambs and is comparable to U.S. grass-fed lamb.

The third category of articles, skins bearing wool, are derived from sheep and lambs. The bulk of U.S. imports are believed to be shearlings (skins of lambs and sheep which were sheared shortly before slaughter) used for the manufacture of garments.

Wool fibers of sheep and lambs, the fourth prohibited product category, are obtained by one of two methods, shearing or pulling. Shorn wool, which is the method most commonly used in the United States, is acquired by clipping wool from the backs of live sheep; pulled wool is removed from the skin of slaughtered sheep.

Wool fibers vary in both length and diameter. Fine wools generally range from 1½ to 5 inches in length and have an average diameter of 15 to 17 microns (one-millionth of a meter); medium grade wools are usually from 2½ to 6 inches in length and have an average diameter of 24 to 34 microns; and coarse wool are from 5 to 15 inches in length and range from 40 to 70 microns in diameter.

The system most often used in the United States to grade wool is referred to as the count system, which classifies wool according to varying degrees of fineness, 30s to 80s, in terms of fiber diameter. Under the count system, 60s, 70s, and 80s are fine; low 50s to low 60s are medium; and 30s to high 40s are coarse. Domestically produced wool consists largely of medium wools, whereas imported wool consists largely of coarse and fine wools. Medium and fine wools are used to produce apparel, while coarse wool is primarily used to produce carpeting, blankets, and home-furnishing fabrics.

Finally, uranium is silvery gray in color, oxidizes rapidly at room temperature, and is highly reactive chemically. Natural uranium contains the isotopes ^{238}U (99.283 percent), ^{235}U (0.71 percent), and ^{234}U (0.005 percent).

Uranium reserves have become important only with the discovery of nuclear fission and the potential of atomic power. Prior to this discovery, uranium was obtained principally as a by-product of radium mining operations. Almost all uranium ore sold is consumed by the nuclear power industry in civilian power reactors.

The principal mining methods for obtaining uranium ore are open-pit and underground mining, with open-pit the dominant method. Open-pit mines are limited to a

depth of 300 feet while underground mines may exceed depths of 5,000 feet. Solution mining, in the form of in-situ and heap leaching, is a third form of ore extraction; it is generally applied only to low grade deposits which cannot be economically mined by conventional methods.

Uranium ore is concentrated largely in the earth's crust where the average concentration is 4 parts per million. Several hundred uranium-containing minerals have been identified, but only a few can be produced commercially. Some of the largest occurrences of uranium ore are in the Colorado Plateau deposits, the Blind River conglomerates in Ontario, and in South Africa, where it is mined as a by-product of gold mining operations.

Justification.—No background information on the proposal was presented in the *Congressional Record* (including the Extension of Remarks portion of the *Record*.

Prior investigations

Lamb meat was the subject of USITC investigations Nos. 701-TA-214 (Preliminary) and 731-TA-188 (Preliminary). In those investigations, the Commission determined [1] that there is no reasonable indication that an industry in the United States is materially injured, or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from New Zealand of lamb meat, which are alleged to be subsidized by the Government of New Zealand.

The Commission also determined [2] that there is no reasonable indication that an industry in the United States is materially injured, or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from New Zealand of lamb meat, which are alleged to be sold in the United States at less than fair value.

Previously, on April 23, 1981, a petition was filed with the U.S. Department of Commerce alleging that imports of lamb meat from New Zealand were being subsidized within the meaning of section 303 of the Tariff Act of 1930. As New Zealand was not at that time a "country under the Agreement" within the meaning of section 701(b) of the Act (19 U.S.C. § 1671(b)),[3] there was no requirement for the petition to be filed with the Commission pursuant to section 702(b)(2) (19 U.S.C. § 1671a(b)(2)) and no requirement for the Commission to conduct a preliminary material injury investigation pursuant to section 703(a) (19 U.S.C. § 1671b(a)).

On September 17, 1981, however, the United States Trade Representative announced that New Zealand had become a "country under the Agreement" (46 F.R. 46263). Accordingly, Commerce terminated its investigation under section 303, initiated an investigation under section 702, and notified the Commission of its action on September 21, 1981.

Therefore, effective September 21, 1981, the Commission, pursuant to section 703(a) of the Act (19 U.S.C. § 1671b(a)), instituted preliminary countervailing duty investigation No. 701-TA-80 (Preliminary) (USITC Publication 1911, November 1981). On November 8, 1981, the Commission determined by a 4-2 vote that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from New Zealand of lamb meat upon which bounties or grants are alleged to be paid.

The Department of Commerce published in the *Federal Register* of November 30, 1981 (46 F.R. 58128) its preliminary affirmative countervailing duty determination, estimating a net subsidy of 6.19 percent of the f.o.b. value of lamb meat exports to the United States. Accordingly, effective November 30, 1981, the Commission instituted investigation No. 701-TA-80 (Final) under section 705(b) of the act to determine whether an industry in the United States is materially injured, or is threatened with material injury or the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination.

---

[1] Commissioners Haggart and Lodwick determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of lamb meat from New Zealand which are alleged to be subsidized by the Government of New Zealand. *Lamb Meat from New Zealand (USITC Publication 1534, June 1984).*

[2] Commissioners Haggart and Lodwick determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of lamb meat from New Zealand which are alleged to be sold at less than fair value.

[3] "The Agreement" is the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade, also known as the Code on Subsidies and Countervailing Duties. "Countries under the Agreement" are those which sign and implement the Code or assume substantially equivalent obligations, or which are non-GATT members but maintain such agreements with the United States on a bilateral basis.

On December 23, 1981, the Commission was notified by letter that the National Wool Growers Association, Inc., and the National Lamb Feeders Association, Inc. withdrew their petition which had prompted the countervailing duty investigation concerning lamb meat from New Zealand. No reason was given for the withdrawal. Sonce the National Wool Growers Association and the National Lamb Feeders Association were the sole petitioners in the investigation, and since these two organizations were the sole participants in the public hearing held in connection with the Commission's preliminary investigation on the subject, the Commission terminated its final investigation.

In 1982, the General Accounting Office (GAO) conducted an investigation covering the incentive payment program for wool as provided in the Wool Act of 1954. The GAO investigation found that the incentive payment programs do not encourage the domestic production of sheep to produce wool and concluded that Congress should rewrite the Wool Act or eliminate it. The GAO study was entitled *Congressional Decision Needed on Necessity of Federal Wool Program*, GAO/CED–82–86, Aug. 2, 1982.

Comparison with present law

Tariff treatment under the TSUS.—The current duty rates,[4] the 1984 ad valorem equivalents of specific duty rates, the pre-MTN column 1 duty rates, and the staged column 1 duty rates for the tariff items covering meats and sheepskins specified in the legislation are shown in table 1. Of the TSUS items specified, items 107.40 and 107.45 (beef or veal, cured or pickled), 107.48 (corned beef in airtight containers), and 107.70 (prepared or preserved lamb meat valued not over 30 cents per pound) cover articles eligible for duty-free treatment under the Generalized System of Preferences (GSP). [5] Also, articles in all of the specified tariff items for meats and sheepskins are eligible for duty-free treatment under the Caribbean Basin Initiative (CBI).[6] However, neither Australia nor New Zealand is eligible for CBI or GSP treatment.

The rates of duty applicable to U.S. imports of wool and the scheduled tariff reductions negotiated in the Tokyo round of the Multilateral Trade Negotiations (MTN) are shown in table 2. The average ad valorem equivalent (AVE) duties paid on imported wool ranged annually as shown in the tabulation on the following page:

Year:	AVE
1980	10.0–13.3
1981	4.0–11.7
1982	2.0–11.0
1983	4.2– 7.8
1984	4.4– 7.4

[4] The rates of duty in rate of duty column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Initiative (CBI), or under the "LDDC" rate of duty column.

The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[5] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[6] The CBI affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin aarea to aid their economic development and to diversify and expand their production and exports. The CBI, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

U.S. imports of wool are not subject to control under the Multifiber Arrangement (MFA)[7] but are eligible for duty-free treatment under the CBI. Additionally, wool classified in TSUS item 306.11[8] is eligible for duty-free entry under the GSP. U.S. imports of certain wool from least developed developing countries (LDDCs)[9] are eligible for preferential duty rates as shown in the following tabulation:

TSUS item No.:	LDDC rate of duty
306.14	4¢ per lb.
306.20	3¢ per clean lb.
306.24	5¢ per lb.

Uranium ore is free of duty from all sources and has been so since prior to 1980.

Tariff treatment under the proposed Harmonized System (HS).—The HS commodity code numbers for the specified meats and sheepskins, the article descriptions, and the column 1 (General) rates of duty proposed for these products in the September 1984 draft converted tariff schedule[10] are shown in table 3.

Wool is classified in chapter 51 of the proposed HS. Table 4 shows the nomenclature for wool and the rates of duty under the proposed schedule.

Uranium ore would be provided for as shown in the following tabulation:

Heading	Article description	Rates of duty	
		Col. 1 general	2
2612	Uranium or thorium ores and concentrates:		
2612.10.00	Uranium ores and concentrates	Free	Free.

Structure of the domestic industry

The industries affected by the legislation include those which grow live cattle and sheep and which process such animals into meat. Cattle growing and processing operations are located in all 50 States, but most are found in the western range lands,[11] the corn belt,[12] and the Southeastern States.[13] During 1984, there were some 1.5 million cattle growing operations in the United States: during 1983, the latest year for which data are available, there were about 1,500 Federally inspected cattle slaughtering plants.

---

[7] Officially known as the Arrangement Regarding International Trade in Textiles and sanctioned under the General Agreement on Tariffs and Trade, the MFA provides the legal framework for the regulation of the international trade in textiles and apparel through bilateral agreements. As of March 1985, the United States and bilateral agreements with the following MFA signatories: Brazil, China, Colombia, Dominican Republic, Egypt, Haiti, Hong Kong, Hungary, India, Indonesia, Japan, the Republic of Korea, Macau, Malaysia, Mexico, Pakistan, the Philippines, Poland, Romania, Singapore, Sri Lanka, Thailand, Uruguay, and Yugoslavia. The United States also had similar agreements with the following non-MFA signatories: Costa Rica, Mauritius, Panama, and Taiwan.

[8] TSUS 306.11 provides for certain coarse grease wool which has not been sorted.

[9] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[10] The Harmonized System is intended to serve as a single, standard, international product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification system containing approximately 5,000 headings and subheadings describing articles in trade. These provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

[11] The range lands are located in 15 States: Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

[12] The following States comprise the corn belt: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin.

[13] The Southeastern States include, Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

Sheep growing and processing operations are concentrated in the western range lands and the corn belt. During 1984 there were about 126,000 sheep growing operations in the United States. During 1983, there were about 1,000 Federally inspected sheep and lamb slaughtering plants, although domestic sheep farmers contend that a relatively few firms account for the greater part of domestic sheep and lamb slaughter. During 1981–84, the number of wool growers decreased by 10 percent—from 140,000 to 126,000—and sheep inventory dropped by 12 percent—from 13.0 million head to 11.4 million head. Texas, the leading sheep and wool producing State, accounted for approximately 18 percent of total domestic sheep production and shorn wool production during 1984. Following Texas were Wyoming and California, with about 10 percent each. Sheep skins are a by-product of the sheep growing and processing industries.

Data are not available on the market share held by the five largest growers in the cattle and sheep growing industries. Although there has been increased concentration in both industries in recent years, even the largest growers are believed to account for only a small part of total production. Published data are not available on the share of the market held by the five largest meat processors. However, the Packers and Stockyards Administration of the U.S. Department of Agriculture publishes a list, in alphabetical order only, of the 10 largest meat packing companies in the United States, based on the total dressed weight of all livestock slaughtered. The 10 firms listed for 1982, the latest year for which data are available, are Armour and Co.; Dubuque Packing Co.; Excel Corporation; Geo. A. Hormel and Co.; IBP, Inc.; John Morrell & Co.; Land-O-Lakes, Inc.; Monfort of Colorado, Inc.; Swift Independent Packing Company and Wilson Foods Corporation. The major packing plants of these companies are located in the areas where the animals are raised. The largest sheep processors account for a large share of sheep skin production.

In 1983, according to the Department of Energy, there were 135 U.S. mines producing uranium ore. Of this total, 110 mines produced ore through underground or open-pit methods; 10 mines produced ore using the solution mining method; and 15 mines produced ore as a by-product of phosphate and copper mining and from mine, water, and mill tailings. Most mines were concentrated in the Colorado plateau and in the Wyoming Basins region.

The Department of Energy also reported that these mines were owned by 50–55 producing companies (both majors and independents) in 1983. Most of the major producers own their own uranium ore processing mills, and these mills also purchase ore from independent ore producers. According to the Department of Energy, there were 23 conventional processing mills in the United States in 1983.

U.S. employment in the uranium mining and exploration industry declined from a peak of approximately 19,000 employees in 1979 to approximately 5,000 employees in 1983. Employment in 1983 was concentrated in New Mexico and Wyoming.

Domestic production

Data on the quantity of beef and veal production in the United States are shown in the following tabulation:

[In millions of pounds]

Year	Beef	Veal	Total
1980	21,470	379	21,849
1981	22,214	415	22,629
1982	22,366	423	22,789
1983	23,060	428	23,488
1984	23,477	466	23,943

As shown in the following tabulation, estimated U.S. production of lamb meat declined sharply in 1984, in part due to reduced U.S. sheep and lamb inventories in 1983.

Lamb meat

Year:	*(Million pounds)*
1980	291
1981	308
1982	335
1983	344

1984	[1] 300

[1] Estimated by staff of the U.S. International Trade Commission.

In the United States, production of skins bearing wool is equal to sheep and lamb slaughter. Such production is shown in the following tabulation:

Skins bearing wool

Year:	*Thousands*
1980	4,744
1981	6,197
1982	6,643
1983	6,792
1984	6,600

U.S. wool production during 1980–84, as provided by the U.S. Department of Agriculture, is shown in the following tabulation:

[Dollars in thousands]

Year	Quantity (thousands of clean pounds)	Value
1980	56,400	$92,860
1981	58,500	103,660
1982	56,500	71,820
1983	53,700	72,200
1984 [1]	49,700	74,240

[1] Preliminary.

U.S. domestic production of uranium ore declined each year during 1980–83, from 16.7 million short tons in 1980 to 7.4 million short tons in 1983 (see table 5). Production is also estimated to have declined in 1984. These decreases have been attributed by the industry to declining demand for uranium ore by utilities, stringent environmental regulations imposed by State and Federal agencies, and increasingly lower grades of domestic uranium ore deposits.

U.S. imports

As shown in table 6, U.S. imports of fresh, chilled, or frozen beef have averaged about 1.2 billion pounds annually in recent years. Australia and New Zealand combined accounted for 75 percent to 80 percent of U.S. imports during 1980–84. Table 7 shows that during 1980–84, U.S. imports of prepared or preserved beef and veal declined from a high of 49.7 million pounds in 1981 to a low of 36.3 million pounds in 1982 and 1983, before increasing to 42.7 million pounds in 1984. Australia and New Zealand combined have accounted for between 3 percent and 7 percent of U.S. imports of prepared or preserved beef and veal. Data on U.S. imports of beef in airtight containers (except corned beef in airtight containers) and corned beef in airtight containers are shown in tables 8 and 9. Australia and New Zealand accounted for less than 1 percent of U.S. imports of such beef during 1980–84.

During 1980–84, U.S. imports of fresh, chilled, or frozen lamb declined irregularly from 33 million pounds in 1980 to 18.4 million pounds in 1984 (table 10). New Zealand accounted for from 90 percent (1981) to 82 percent (1983) of total U.S. imports of fresh, chilled, or frozen lamb; and Australia has accounted for nearly all the remainder. U.S. imports of prepared or preserved lamb, most of which came from New Zealand, averaged 203,000 pounds annually during 1980–84.

Under authority of the Meat Export Control Act of 1921–22, New Zealand authorizes only one company, the Meat Export Development Co. (New Zealand), Ltd. (DEVCO), to export meat to the United States. Since 1981, DEVCO has been 50-percent owned by the New Zealand Meat Producers Board, an entity empowered to handle all meat exports, and 50-percent owned by a number of meat processors. Exporting meat to North America is DEVCO's sole business and the reason for which it was founded. The New Zealand Lamb Co., Inc., headquartered in White Plains, N.Y., is DEVCO's U.S. subsidiary, which imports lamb and sells it to distributors and retailers (generally major food distributors).

U.S. imports of the specified meats from countries receiving the column 2 rates of duty have been negligible or nil.

Costa Rica and Honduras, countries receiving CBI treatment, were the fourth and fifth largest suppliers, respectively, of U.S. imports of fresh, chilled, or frozen beef

and veal; and other Central American countries were also suppliers. Argentina, Brazil, and Uruguay, countries receiving GSP treatment, are the top three suppliers of U.S. imports of prepared or preserved beef and veal and of corned beef in airtight containers.

U.S. imports of skins bearing wool declined sharply from 137,000, valued at $1.8 million, in 1980 to 61,000, valued at $326,000, in 1984. U.S. imports of wool for consumption, according to official statistics of the U.S. Department of Commerce, were as follows:

[Dollars in thousands]

Year	Quantity (thousands of clean pounds)	Value
1980	56,455	$105,684
1981	74,323	146,992
1982	61,478	122,088
1983	77,873	139,357
1984	94,114	168,075

During 1984, more than 85 percent of the total quantity and value of wool imports were shipped from Australia, New Zealand, and the Republic of South Africa, which are eligible for column 1 rates of duty, as shown in the following tabulation:

[Dollars in thousands]

Source	Quantity (thousands of clean pounds)	Value	Percent of total quantity of imports
Australia	42,557	$86,918	45.2
New Zealand	29,066	38,404	30.9
Republic of South Africa	9,296	21,318	9.9
All other	13,195	21,435	14.0
Total	94,114	168,075	100.0

Australia and New Zealand accounted for approximately 75 percent of the total quantity and value of U.S. wool imports during 1984. More than 85 percent of Australia and New Zealand shipments of wool to the United States consisted of fine grade wool. Australia and New Zealand also supplied more than 70 percent of total U.S. imports of fine wool during 1984.

The leading importers of wool during January-June 1984 and their locations were as follows:

Burlington Industries
P.O. Box 8247
Greensboro, NC 27419

J.P. Stevens & Company
Appleton Plant
P.O. Box 2587
Anderson, SC 29621

Australian Wool Corporation
605 Madison Avenue
4th Floor
New York, NY 10022

Prouvost Lefebvre & Co., Inc.
51 Sleeper Street
Boston, MA 02210

The names and addresses of importers of the other articles specified in the legislation are not available; however, industry sources report that the bulk of U.S. imports are accounted for by trading companies.

There were no imports of uranium ore during 1980–1984 due to the high cost of transporting such a heavy material over long distances (see table 5). Uranium ore is

typically processed into a concentrate form in order to ship the material more economically.

U.S. exports

U.S. exports of fresh, chilled, or frozen beef and veal increased from 106 million pounds, valued at $201 million, in 1980 to 219 million pounds, valued at $418 million, in 1984 (table 11). U.S. exports of prepared or preserved beef and veal amounted to slightly more than 23 million pounds, valued at about $48 million, annually in most years during 1980–84 (table 12). U.S. exports of beef in airtight containers averaged about 5 million pounds, valued at about $4 million, annually during 1980–84 (table 13); U.S. exports of corned beef in airtight containers have been negligible or nil. U.S. exports of lamb declined from 1.9 million pounds, valued at $2.5 million, in 1981 to 1.3 million pounds, valued at $2.1 million, in 1983 before increasing to 1.7 million pounds, valued at $3.0 million, in 1984 (table 14). The names and addresses of the largest exporters are not available. Most U.S. exports are believed to be handled by trading companies, including subsidiaries of Japanese trading companies which account for the bulk of U.S. exports of beef.

U.S. exports of wool, according of official statistics of the U.S. Department of Commerce, were as follows:

[Dollars in thousands]

Year	Quantity (thousands of clean pounds)	Value
1980	304	$530
1981	296	624
1982	1,168	1,074
1983	982	1,169
1984	567	954

Because the level of wool exports is negligible, less than $1.0 million in 1984, the names of U.S. exporters are not published.

There were no exports of uranium ore during 1980–1984, due to the costs associated with transporting uranium ore over large distances (see table 5).

Apparent U.S. consumption

The quantity of beef and veal consumed in the United States in recent years is shown in the following tabulation:

[In millions of pounds]

Year	Beef	Veal	Total
1980	23,320	410	23,730
1981	23,756	437	24,193
1982	23,998	457	24,455
1983	24,709	457	25,166
1984	24,956	502	25,458

As shown in the following tabulation, the quantity of lamb consumed in the United States increased steadily from 1980 to 1983 before declining in 1984.

Lamb (million pounds)

Year:	
1980	323
1981	337
1982	353
1983	361
1984	316

Detailed statistics on the quantity of sheep skins bearing wool consumed in the United States are not available, inasmuch as import data for some types of skins

are reported on a value basis only. However, consumption in the United States is estimated to amount to about 5 million skins annually.

Apparent U.S. consumption of wool during the past 5 years was as follows:

Year	Quantity (thousands of clean pounds)	Value
1980	112,551	$198,014
1981	132,627	250,028
1982	116,810	192,834
1983	130,591	210,388
1984	143,247	241,361

U.S. consumption of uranium ore declined from 16.7 million short tons in 1980 to 7.4 million short tons in 1983 (see table 5); U.S. consumption is estimated to have declined further in 1984. The decline in U.S. consumption is due to high levels of utility company inventories of uranium ore (representing a major source of supply) caused by delays in nuclear reactor construction. In recent years, direct inter-utility sales and loans have grown as a source of uranium ore supply.

Effect on revenue

The calculated customs duties for 1984 on the subject articles, which presumably would not have been collected had the prohibition been in effect in that year, are shown in the following tabulation.

	Calculated tariff duty
TSUSA item No.:	
106.1020–80	$10,610,772
106.3000	91,356
107.4000	0
107.4500	0
107.4820–40	3,968
107.5220–40	652
107.5500	0
107.6100	24
107.6200	0
107.6300	102,837
123.0020–85	0
306.3152	621,021
306.3172	2,486,116
306.3253	13,357
306.3273	5,458
306.3354	487,595
306.3374	1,866,733
306.3475	2,702
Total	16,292,591

Technical comments

In line 4, "custom" should appear as "customs".

It may be useful to add an effective period provision to the legislation.

GATT comments

It should be noted that enactment of this legislation, which is not applicable on an MFN basis and was not based on appropriate injury/increased imports or other findings, would likely be seen as violating Articles I, II, XIX, XX, and XXIII (among others) of the General Agreement on Tariffs and Trade, although arguably justifiable under Article XXI (security excepting).

Table 1.—Selected commodities: U.S. rates of duty by TSUS items

TSUS item No.	"Article description (abridged)"	Pre MTN col. 1 rate of duty 1/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—								Col. 2 rate of duty	Ad valorem equivalent of col. 1 rate of duty in 1984
			1980	1981	1982	1983	1984	1985	1986	1987		
	Meat, fresh, chilled, or frozen:											
106.10	Beef and veal	3¢ per lb.	2.5¢	2¢	2¢	2¢	2¢	2¢	2¢	2¢	6¢ per lb	2.2%
106.30	Lamb	1.7¢ per lb.	0.5¢	0.5¢	0.5¢	0.5¢	0.5¢	0.5¢	0.5¢	0.5¢	7¢ per lb.	0.7%
	Meat, prepared or preserved:											
	Beef and veal, cured or pickled:											
107.40	Valued not over 30 cents per pound.	3¢ per lb.	2.7¢	2.5¢	2.2¢	2¢	1.7¢	1.5¢	1.2¢	1¢	4.5¢ per lb.	No entries.
107.45	Valued over 30 cents per pound.	10% ad val.	2/	2/	2/	2/	2/	2/	2/	2/	30% ad val.	10%.
	Beef in airtight containers:											
107.48	Corned beef	7.5% ad val.	4.5%	3%	3%	3%	3%	3%	3%	3%	30% ad val.	7.5%.
107.52	Other	7.5% ad val.	4.5%	3%	3%	3%	3%	3%	3%	3%	30% ad val.	3%.
	Other:											
107.55	Valued not over 30 cents per pound.	3¢ per lb.	2.5¢	2¢	2¢	2¢	2¢	2¢	2¢	2¢	6¢ per lb.	No entries.
	Valued over 30 cents per pound:											
	Prepared whether fresh, chilled, or frozen but not otherwise preserved:											
107.61	Prime or Choice	10% ad val.	7%	4%	4%	4%	4%	4%	4%	4%	20% ad val.	4%.
107.62	Other	10% ad val.	2/	2/	2/	2/	2/	2/	2/	2/	20% ad val.	10%.
107.63	Other	10% ad val.	7%	4%	4%	4%	4%	4%	4%	4%	20% ad val.	4%.

1/ Rate effective prior to Jan. 1, 1980.
2/ Rate not negotiated in Tokyo round.

Table 2.--Wool: U.S. rates of duty, by TSUS items

(Cents per clean pound)

TSUS item No. 1/	Description	Pre-MTN col. 1 rate of duty 2/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
306.00	Wool provided for in item 306.10, 306.11, 306.12, or 306.13, all other wools of whatever blood or origin not finer than 46s (except carbonized wools); hair of the camel provided for in item 306.40, 306.41, 306.42, or 306.43; and Karakul wools, and other wools of whatever blood or origin not finer than 40s, all of which are entered by a dealer, manufacturer, or processor for the manufacture of specific products.	Free, under bond.	3/	3/	3/	3/	3/	3/	3/	3/	Free, under bond
	Wool:										
	Aleppo, Arabian, Bagdad, Black Spanish, Chinese, Cordova, Cyprus, Donskoi, East Indian Ecuadorean, Egyptian, Georgian, Haslock, Iceland, Kerry, Manchurian, Mongolian, Oporto, Persian, Pyrenean, Sardinian, Scotch Blackface, Sistan, Smyrna, Sudan, Syrian, Thibetan, Turkestan, Valparaiso, and Welsh Mountain wool; similar wool not improved by the admixture of merino or English blood; and other wool of whatever blood or origin not finer than 40s; all the foregoing:										
306.10	On the skin	5.5¢ 4/	4¢ 4/	3¢ 4/	2¢ 4/	2¢ 4/	2¢ 4/	2¢ 4/	2¢	2¢	22¢ 4/
	In the grease or washed:										
A306.11	Not sorted	6.5¢ 4/	5¢ 4/	3.5¢ 4/	2.5¢ 4/	2.5¢ 4/	2.5¢ 4/	2.5¢ 4/	2.5¢	2.5¢	24¢ 4/
306.12	Sorted	7¢ 4/	5.5¢ 4/	4¢ 4/	2.5¢ 4/	2.5¢ 4/	2.5¢ 4/	2.5¢ 4/	2.5¢	2.5¢	25¢ 4/
306.13	Scoured	8¢ 4/	6¢ 4/	4.5¢ 4/	3¢ 4/	3¢ 4/	3¢ 4/	3¢ 4/	3¢	3¢	27¢ 4/
306.14	Carbonized	11.5¢ 4/	11.5¢ 4/	11.5¢ 4/	10¢ 4/	9¢ 4/	7.5¢ 4/	6.5¢ 4/	5¢	4¢	34¢ 4/
	Other wool										
	Finer than 40s but not finer than 44s										
306.20	On the skin	7.5¢ 4/	7¢ 4/	6¢ 4/	5.5¢ 4/	5¢ 4/	4.5¢ 4/	4¢ 4/	3.5¢	3¢	27¢ 4/
	In the grease or washed:										
306.21	Not sorted	8.5¢ 4/	6.5¢ 4/	4.5¢ 4/	3¢ 4/	3¢ 4/	3¢ 4/	3¢ 4/	3¢	3¢	29¢ 4/
306.22	Sorted	9¢ 4/	7¢ 4/	5¢ 4/	3¢ 4/	3¢ 4/	3¢ 4/	3¢ 4/	3¢	3¢	30¢ 4/
306.23	Scoured	10¢ 4/	8¢ 4/	6¢ 4/	4¢ 4/	4¢ 4/	4¢ 4/	4¢ 4/	4¢	4¢	32¢ 4/
306.24	Carbonized	13.5¢ 4/	13.5¢ 4/	13.5¢ 4/	12¢ 4/	10¢ 4/	9¢ 4/	7¢ 4/	6¢	5¢	39¢ 4/
	Finer than 44s:										
306.30	On the skin	12¢ 5/	9¢ 5/	6.5¢ 5/	4¢ 5/	4¢ 5/	4¢ 5/	4¢ 5/	4¢	4¢	32¢ 5/
	In the grease or washed:										
306.31	Not sorted	25.5¢ 5/	20¢ 5/	15¢ 5/	10¢ 5/	10¢ 5/	10¢ 5/	10¢ 5/	10¢	10¢	34¢ 5/
306.32	Sorted	26.25¢ 5/	20¢ 5/	15¢ 5/	10¢ 5/	10¢ 5/	10¢ 5/	10¢ 5/	10¢	10¢	35¢ 5/
306.33	Scoured	27.75¢ 5/	22¢ 5/	16.5¢ 5/	11¢ 5/	11¢ 5/	11¢ 5/	11¢ 5/	11¢	11¢	37¢ 5/
306.34	Carbonized	33¢ 5/	26¢ 5/	19¢ 5/	13¢ 5/	13¢ 5/	13¢ 5/	13¢ 5/	13¢	13¢	44¢ 5/

1/ The designation "A" indicates that the item is currently designated as an eligible article for duty-free treatment under the U.S. Generalized System of Preferences (GSP) and that all beneficiary developing countries are eligible for the GSP.

2/ Rate effective before Jan. 1, 1980.

3/ No concession granted.

4/ Duty temporarily suspended effective Nov. 8, 1977, until June 30, 1985.

5/ Duty on wool not finer than 40s temporarily suspended effective Nov. 8, 1977, until June 30, 1985.

Table 3.--Beef and veal, lamb, and sheep skins: U.S. rates of duty, by HS item

HS commodity code number	Ind ex	Product description	Unit of quantity	Col. 1 (General) rate of duty 1/
0201	1/	Meat of bovine animals, fresh or chilled		
0201.10.00	00	Carcasses and half-carcasses	Kg	4.4¢/kg.
0201.20		Other cuts with bone in:		
		Processed:		
0201.20.20	00	High-quality beef cuts	Kg	4%.
0201.20.40	00	Other	Kg	10%.
0201.20.60	00	Other	Kg	4.4¢/kg.
0201.30		Boneless:		
		Processed:		
0201.30.20	00	High-quality beef cuts	Kg	4%.
0201.30.40	00	Other	Kg	10%.
0201.30.60	00	Other	Kg	4.4¢/kg.
0202	1/	Meat of bovine animals, frozen:		
0202.10.00	00	Carcasses and half-carcasses	Kg	4.4¢/kg.
0202.20		Other cuts with bone in:		
		Processed:		
0202.20.20	00	High-quality beef cuts	Kg	4%.
0202.20.40	00	Other	Kg	10%.
0202.20.60		Other		4.4¢/kg.
	20	Beef	Kg	
	40	Other, including veal	Kg	
0202.30		Boneless:		
		Processed:		
0202.30.20	00	High-quality beef cuts	Kg	4%.
0202.30.40	00	Other	Kg	10%.
0202.30.60		Other		4.4¢/kg.
	20	Beef	Kg	
	40	Other, including veal	Kg	
0204	1/	Meat of sheep or goats, fresh, chilled, or frozen:		
0204.10.00	00	Carcasses and half-carcasses of lamb, fresh or chilled.	Kg	1.1¢/kg.
		Other meat of sheep, fresh or chilled:		
0204.22		Other cuts with bone in:		
0204.22.20	00	Lamb	Kg	1.1¢/kg.
0204.23		Boneless:		
0204.23.20	00	Lamb	Kg	1.1¢/kg.
0204.30.00	00	Carcasses and half-carcasses of lamb, frozen.	Kg	1.1¢/kg.

Table 3 —Beef and veal, lamb, and sheep skins: U.S. rates of duty, by HS item

HS commodity code number	Indx	Product description	Unit of quantity	Col. 1 (General) rate of duty 1/
0204	1/	Meat of sheep or goats, fresh, chilled, or frozen—Continued.		
		Other meat of sheep, frozen:		
0204.42		Other cuts with bone in:		
0204.42.20	00	Lamb	Kg.....	1.1¢/kg.
0204.43		Boneless:		
0204.43.20	00	Lamb	Kg.....	1.1¢/kg.
0210		Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal:		
0210.20.00	00	Meat of bovine animals	Kg.....	10%.
0210.90.00	00	Other, including edible flours and meals of meat or meat offal.	Kg.....	10%.
1602		Other prepared or preserved meat, meat offal or blood:		
1602.50		Of bovine animals:		
		Beef in airtight containers		
1602.50.10		Corned beef	.....	7.5%.
	20	In containers holding less than 1 kg.	Kg	
	40	Other	Kg	
1602.50.20		Other	.....	3%.
	60	In containers holding less than 1 kg.	Kg	
	80	Other	Kg	
		Other:		
1602.50.40	00	Beef or veal, cured or pickled	Kg.....	10%.
1602.50.60	00	Other	Kg.....	4%.
1602.90.00		Other, including preparations of blood of any animal.	.....	5%.
	40	Other	Kg	
4102		Raw skins of sheep or lambs (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not with wool on or split, other than those excluded by note 1(c) to this chapter:		
4102.10.00	00	With wool on	Piece..v Kg	Free.

1/ To be effective upon implementation of the HS.

Table 4.--Wool: Classificiations and rates of duty under proposed Harmonized System

Heading No.	Article Description	Col. 1 (General)	Col. 2
5101	Wool, not carded or combed:		
5101.11	Greasy, including fleece-washed wool:		
	Shorn wool:		
	Unimproved wool; other wool, not finer than 46s:		
5101.11.10	Wool for special uses	Free, under bond	Free, under bond
	Other:		
5101.11.20	Unimproved wool, other wool, not finer than 40s	5.5¢/clean kg. 1/	55.1¢/clean kg. 1/
5101.11.40	Other wool, finer than 40s but not finer than 44s	6.6¢/clean kg. 1/	66.1¢/clean kg. 1/
5101.11.50	Other wool, finer than 44s	22.1¢/clean kg. 1/	77.2¢/clean kg. 1/
5101.11.60	Other	22.1¢/clean kg.	77.2¢/clean kg.
5101.19	Other:		
	Unimproved wool, other wool, not finer than 46s:		
5101.19.10	Wool for special uses	Free, under bond	Free, under bond
	Other:		
5101.19.20	Unimproved wool, other wool, not finer than 40s	5.5¢/clean kg. 1/	55.1¢/clean kg. 1/
5101.19.40	Other wool, finer than 40s but not finer 44s	6.6¢/clean kg. 1/	66.1¢/clean kg. 1/
5101.19.50	Other wool, finer than 44s	22.1¢/clean kg. 1/	77.2¢/clean kg. 1/
5101.19.60	Other	22.1¢/clean kg.	77.2¢/clean kg.
	Degreased, not carbonized:		
5101.21	Shorn wool:		
	Not processed in any manner beyond the degreased condition:		
	Unimproved wool, other wool, not finer than 46s:		
5101.21.10	Wool for special uses	Free, under bond	Free, under bond
	Other:		
5101.21.15	Unimproved wool, other wool, not finer than 40s	6.6¢/clean kg. 1/	59.5¢/clean kg. 1/
5101.21.30	Other wool, finer than 40s but not finer than 44s	8.8¢/clean kg. 1/	70.6¢/clean kg. 1/

See footnotes at end of table.

Table 4.--Wool: Classifications and rates of duty under proposed Harmonized System--Continued

Heading No.	Article Description	Col. 1 (General)	Col. 2
5101.21.35	Other wool, finer than 44s	24.3¢/clean kg. 1/	81.6¢/clean kg. 1/
5101.21.40	Other	24.3¢/clean kg.	81.6¢/clean kg.
5101.21.60	Other	7.7¢/kg. + 6.25%	81.6¢/kg. + 20%
5101.29	Other:		
	Not processed in any manner beyond the degreased condition:		
	Unimproved wool; other wool, not finer than 46s:		
5101.29.10	Wool for special uses	Free, under bond	Free, under bond
	Other:		
5101.29.15	Unimproved wool; other wool, not finer than 40s	6.6¢/clean kg. 1/	59.6¢/clean kg. 1/
5101.29.30	Other wool, finer than 40s but not finer than 44s	8.8¢/clean kg. 1/	70.6¢/clean kg. 1/
5101.29.35	Other wool, finer than 44s	24.3¢/clean kg. 1/	81.6¢/clean kg. 1/
5101.29.40	Other	24.3¢/clean kg.	81.6¢/clean kg.
5101.29.60	Other	7.7¢/kg. + 6.25%	81.6¢/kg. + 20%
5101.30	Carbonized:		
	Not processed in any manner beyond the carbonized condition:		
5101.30.10	Unimproved wool, other wool, not finer than 40s	8.8¢/kg. 1/	75.1¢/kg. 1/
5101.30.15	Other wool, finer than 40s but not finer than 44s	11¢/kg. 1/	86.1¢/kg. 1/
5101.30.30	Other wool, finer than 44s but not finer than 46s	28.7¢/kg. 1/	97¢/kg. 1/
5101.30.40	Other wool, finer than 46s	28.7¢/kg.	97¢/kg.
5101.30.60	Other	7.7¢/kg. + 6.25%	81.6¢/kg. +20%

1/ Duty temporarily suspended until June 30, 1985.

Table 5.—Uranium ore: U.S. production, exports of domestic merchandise, imports for consumption, and apparent consumption, 1980–84

Quantity in million short tons

Year	U.S. production	Exports	Imports	Apparent consumption	Ratio (percent) of imports to consumption
	Quantity				
1980	16.7	0	0	16.7	0
1981	13.7	0	0	13.7	0
1982	8.3	0	0	8.3	0
1983	7.4	0	0	7.4	0
1984	1/	0	0	1/	0

1/ Not available, but estimated by officials of the Department of Energy to have declined from 1983 levels.

Source: Data on U.S. production is from official statistics of the U.S. Department of Energy; data on imports and exports are from official statistics of the Bureau of the Census.

Table 6.--Beef and veal, fresh, chilled, or frozen: U.S. imports for consumption, 1980-84

Source	1980	1981	1982	1983	1984	
					Year to date	December
	Quantity (1,000 pounds)					
Austral	801,247	567,094	715,298	613,404	535,410	36,374
N Zeal	328,100	340,021	345,838	359,165	319,963	15,587
Canada	94,395	119,354	124,985	128,439	167,102	16,685
C Rica	46,013	62,403	52,392	35,025	43,431	5,318
Hondura	57,917	48,265	35,398	36,341	22,394	766
Guatmal	19,166	11,550	6,399	19,483	19,477	1,368
Nicarag	46,031	19,069	30,363	26,973	10,513	1,709
Denmark	471	6,009	1,497	0	5,757	606
Salvadr	4,499	328	2,607	3,604	3,479	[illegible]
Ireland	9,222	5,508	5,204	9,768	6,273	348
All Other	6,795	19,916	17,694	14,599	6,629	556
Total Imports	1,413,855	1,199,517	1,337,675	1,246,800	1,138,410	79,[illegible]
	Value (1,000 dollars)					
Austral	879,643	564,157	625,833	566,562	477,944	31,421
N Zeal	354,179	330,220	310,157	335,944	296,534	15,987
Canada	95,493	108,431	114,097	112,270	141,221	13,103
C Rica	59,893	70,375	53,378	36,928	44,765	5,298
Hondura	63,380	49,549	35,496	35,594	21,930	671
Guatmal	23,684	12,898	6,931	17,056	16,411	1,028
Nicarag	62,517	22,238	32,159	27,080	9,770	1,441
Denmark	446	5,586	1,236	0	4,833	338
Salvadr	5,496	339	2,579	3,603	3,503	259
Ireland	9,860	4,765	4,354	8,519	3,434	230
All Other	7,886	23,552	20,484	17,114	6,989	632
Total Imports	1,562,476	1,192,109	1,206,704	1,160,670	1,027,300	67,858
	Unit value (per pound)					
Austral	1.10	.99	.87	.92	.89	.86
N Zeal	1.08	.97	.90	.94	.93	.90
Canada	1.01	.91	.91	.87	.85	.79
C Rica	1.30	1.13	1.02	1.05	1.03	.98
Hondura	1.09	1.03	1.00	.98	.98	.88
Guatmal	1.24	1.12	1.08	.88	.84	.75
Nicarag	1.36	1.17	1.06	1.00	.93	.84
Denmark	.95	.93	.83	.00	.84	.84
Salvadr	1.22	1.03	.99	1.00	1.01	.89
Ireland	1.07	.87	.84	.87	.80	.64
All Other	1.16	1.18	1.16	1.17	1.05	.78
Average	1.11	.99	.90	.93	.90	.86

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 7.--Beef and veal, prepared or preserved: U.S. imports for consumption, 1980-84

Source	1980	1981	1982	1983	1984	
					Year to date	December
			Quantity (1,000 pounds)			
Argent	33,691	41,451	28,476	31,290	35,835	1,327
Brazil	2,518	6,370	4,755	2,284	4,776	767
Uruguay	248	125	310	871	2,430	0
Austral	325	538	1,807	994	893	24
N Zeal	873	1,030	817	693	735	38
Canada	38	34	84	66	33	1
Switzld	14	13	11	18	14	0
Sweden	0	0	0	1/	5	0
Taiwan	0	0	0	0	11	0
Denmark	0	0	0	0	7	3
All Other	877	166	69	88	27	0
Total Imports	38,583	49,728	36,329	36,304	42,738	1,652
			Value (1,000 dollars)			
Argent	66,036	86,047	50,236	56,606	63,801	2,256
Brazil	4,814	11,819	6,263	3,085	5,737	308
Uruguay	459	257	412	1,065	3,003	0
Austral	652	1,302	3,915	2,387	2,572	109
N Zeal	827	877	649	435	547	20
Canada	234	250	337	272	259	26
Switzld	93	97	75	116	75	0
Sweden	0	0	0	1	10	0
Taiwan	0	0	0	0	8	0
Denmark	0	0	0	0	8	3
All Other	1,205	340	80	118	6	0
Total Imports	74,319	100,989	61,968	64,086	74,000	2,722
			Unit value (per pound)			
Argent	1.96	2.08	1.76	1.81	1.83	1.70
Brazil	1.91	1.86	1.32	1.35	1.20	1.18
Uruguay	1.85	2.05	1.33	1.22	1.24	.00
Austral	2.01	2.42	2.17	2.40	2.88	4.36
N Zeal	.95	.85	.79	.63	.74	.53
Canada	6.17	7.29	3.99	4.14	7.12	8.68
Switzld	6.87	7.27	6.95	6.31	5.47	.00
Sweden	.00	.00	.00	3.03	3.52	.00
Taiwan	.00	.00	.00	.00	.73	.00
Denmark	.00	.00	.00	.00	1.12	1.86
All Other	1.37	2.05	1.17	1.34	3.39	.00
Average	1.93	2.03	1.71	1.77	1.73	1.64

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 8.--Beef, (except corned beef) in airtight containers: U.S. imports for consumption, 1980-84

Source	1980	1981	1982	1983	1984	
					Year to date	December
	Quantity (1,000 pounds)					
Brazil	6,171	4,154	6,737	18,444	22,534	1,447
Argent	10,382	7,332	7,325	12,289	10,263	777
Canada	5	1	3	1,879	556	60
Uruguay	336	403	147	134	615	137
Italy	90	96	97	152	165	0
Malaysa	0	0	0	0	38	0
Switzld	0	0	0	1	5	0
Austral	32	4	1/	206	21	0
Yugoslv	0	0	0	0	17	0
Denmark	0	0	0	0	6	0
All Other	1,025	292	0	1/	1	0
Total Imports	18,040	12,282	14,308	33,107	34,221	2,396
	Value (1,000 dollars)					
Brazil	9,622	6,036	8,540	21,039	23,243	1,457
Argent	15,020	10,751	7,520	12,488	10,209	818
Canada	8	2	27	3,529	1,140	67
Uruguay	441	593	214	162	679	161
Italy	160	201	189	268	301	0
Malaysa	0	0	0	0	43	0
Switzld	0	0	0	6	31	0
Austral	28	9	1	311	22	0
Yugoslv	0	0	0	0	16	0
Denmark	0	0	0	0	5	0
All Other	665	223	0	1	4	0
Total Imports	25,944	17,814	16,491	37,805	35,692	2,503
	Unit value (per pound)					
Brazil	1.56	1.45	1.27	1.14	1.03	1.01
Argent	1.45	1.47	1.03	1.02	.99	1.06
Canada	1.54	1.72	10.86	1.88	2.05	1.69
Uruguay	1.31	1.47	1.46	1.20	1.10	1.18
Italy	1.77	2.09	1.95	1.76	1.83	.00
Malaysa	.00	.00	.00	.00	1.15	.00
Switzld	.00	.00	.00	6.74	5.64	.00
Austral	.90	2.20	6.00	1.51	1.02	.00
Yugoslv	.00	.00	.00	.00	.83	.00
Denmark	.00	.00	.00	.00	.95	.00
All Other	.65	.76	.00	1.43	5.96	.00
Average	1.44	1.45	1.15	1.14	1.04	1.04

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 9.--Corned beef in airtight containers: U.S. imports for consumption, 1980-84

Source	1980	1981	1982	1983	1984	
					Year to date	December
Quantity (1,000 pounds)						
Brazil	44,360	42,260	35,669	53,711	55,799	4,488
Argent	29,751	19,083	29,997	41,188	32,704	1,170
Uruguay	1,670	3,102	2,966	1,514	4,312	155
N Zeal	119	168	151	274	223	57
Denmark	30	32	63	381	168	168
Austral	49	18	0	13	35	0
Colomb	0	0	0	0	31	0
FR Germ	0	0	0	0	32	32
Canada	0	0	0	1	1	1
Bolivia	0	0	0	34	0	0
All Other	45	64	56	0	0	0
Total Imports	76,024	64,727	68,901	97,116	93,282	6,290
Value (1,000 dollars)						
Brazil	66,841	59,945	38,839	55,932	55,155	4,296
Argent	43,377	27,474	31,077	39,253	29,690	1,060
Uruguay	2,560	4,509	3,285	1,615	4,261	155
N Zeal	254	294	377	544	510	87
Denmark	29	26	52	362	167	167
Austral	83	37	0	18	53	0
Colomb	0	0	0	0	31	0
FR Germ	0	0	0	0	22	22
Canada	0	0	0	2	4	4
Bolivia	0	0	0	43	0	0
All Other	68	89	62	0	0	0
Total Imports	113,211	92,373	73,693	97,768	87,894	5,791
Unit value (per pound)						
Brazil	1.51	1.42	1.09	1.04	.95	.91
Argent	1.46	1.44	1.04	.95	.91	.89
Uruguay	1.53	1.45	1.11	1.07	.99	.91
N Zeal	2.14	1.74	2.50	1.99	2.29	2.34
Denmark	.96	.82	.83	.95	1.13	1.13
Austral	1.70	2.06	.00	1.36	1.62	.00
Colomb	.00	.00	.00	.00	1.03	.00
FR Germ	.00	.00	.00	.00	.69	.69
Canada	.00	.00	.00	2.69	3.35	3.41
Bolivia	.00	.00	.00	1.25	.00	.00
All Other	1.52	1.39	1.10	.00	.00	.00
Average	1.49	1.43	1.07	1.01	.94	.92

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 10.--Lamb, fresh, chilled, or frozen: U.S. imports for consumption, 1980-84

Source	1980	1981	1982	1983	1984	
					Year to date	December
	Quantity (1,000 pounds)					
N Zeal	28,782	27,845	15,617	14,743	15,527	2,651
Austral	4,199	3,227	3,058	3,154	2,782	132
U King	0	0	0	0	30	0
Denmark	0	0	0	0	27	0
Iceland	6	9	16	58	11	0
Sweden	0	0	0	0	1/	1/
Canada	22	1/	0	43	1/	0
Total Imports	33,009	31,081	18,671	17,998	18,378	2,784
	Value (1,000 dollars)					
N Zeal	31,376	33,730	21,913	19,092	10,757	1,811
Austral	4,127	3,375	3,364	3,243	2,876	140
U King	0	0	0	0	39	0
Denmark	0	0	0	0	22	0
Iceland	3	12	18	88	11	0
Sweden	0	0	0	0	2	2
Canada	39	1/	0	27	1	0
Total Imports	35,545	37,117	25,294	22,450	13,707	1,955
	Unit value (per pound)					
N Zeal	1.09	1.21	1.40	1.29	.69	.68
Austral	.98	1.05	1.11	1.03	1.03	1.06
U King	.00	.00	.00	.00	1.29	.00
Denmark	.00	.00	.00	.00	.79	.00
Iceland	.59	1.27	1.11	1.53	1.00	.00
Sweden	.00	.00	.00	.00	4.10	4.10
Canada	1.75	4.22	.00	.62	3.42	.00
Average	1.08	1.19	1.35	1.25	.75	.70

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 11.--Beef and veal, fresh, chilled, or frozen: U.S. exports, 1980-84

Market	1980	1981	1982	1983	1984	
					Year to Date	December
Quantity (1,000 pounds)						
Japan	70,974	93,520	114,066	130,523	170,630	12,188
Canada	7,895	13,012	8,596	10,879	19,599	1,507
S Arab	2,237	5,051	5,357	3,712	3,595	365
Kor Rep	499	894	1,063	1,913	2,732	277
Bahamas	5,453	4,203	3,204	4,212	4,298	812
Taiwan	2,712	1,134	4,407	3,171	3,413	283
Bermuda	1,902	1,502	1,835	1,769	2,023	85
Hg Kong	1,597	2,119	1,907	1,631	1,472	71
Singapr	1,013	1,151	1,038	951	791	38
Switzld	1,587	881	601	786	712	124
All other	10,513	14,032	15,820	18,971	9,446	952
Total exports	106,383	137,499	157,895	178,517	218,712	16,650
Value (1,000 dollars)						
Japan	131,085	155,839	229,568	251,345	320,519	24,387
Canada	14,307	23,780	15,743	19,054	33,051	2,520
S Arab	5,225	13,297	13,777	9,508	10,226	561
Kor Rep	1,507	2,315	2,760	3,765	6,686	627
Bahamas	8,742	6,794	4,651	5,392	6,432	1,007
Taiwan	3,707	2,758	6,101	5,206	5,987	517
Bermuda	4,415	4,071	4,797	4,373	5,320	191
Hg Kong	4,218	5,508	5,428	4,738	4,316	225
Singapr	2,852	3,209	3,222	3,059	2,611	138
Switzld	2,787	3,111	2,547	2,891	2,475	383
All other	22,442	27,134	30,947	31,653	20,268	2,137
Total exports	201,287	247,816	319,540	340,984	417,884	32,292
Unit value (per pound)						
Japan	1.85	1.67	2.01	1.93	1.88	2.00
Canada	1.81	1.83	1.83	1.75	1.69	1.54
S Arab	2.34	2.63	2.57	2.56	2.84	1.54
Kor Rep	3.02	2.59	2.60	1.97	2.45	1.88
Bahamas	1.60	1.62	1.45	1.28	1.50	1.24
Taiwan	1.37	2.43	1.38	1.64	1.75	1.83
Bermuda	2.32	2.71	2.61	2.47	2.63	2.31
Hg Kong	2.64	2.60	2.85	2.90	2.93	3.17
Singapr	2.82	2.79	3.10	3.22	3.30	3.60
Switzld	1.76	3.53	4.23	3.68	3.47	3.09
All other	2.13	1.93	1.96	1.67	2.15	2.24
Average	1.89	1.80	2.02	1.91	1.91	1.94

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 12.--Beef, prepared or preserved: U.S. exports, 1980-84

Market	1980	1981	1982	1983	1984	
					Year to Date	December
			Quantity (1,000 pounds)			
Canada	2,925	2,906	2,912	3,107	5,941	345
Japan	4,436	2,646	2,955	2,948	3,353	275
S Arab	2,493	3,329	4,185	4,846	2,107	113
N Antil	1,317	1,422	1,466	2,205	2,129	308
Bahamas	1,386	1,473	1,062	1,436	1,597	158
Barbado	283	392	233	231	614	16
Kor Rep	1,259	976	500	439	478	27
Switzld	273	171	106	239	300	4
Lw Ind I	547	642	578	558	448	37
Hg Kong	172	254	234	257	563	23
All other	5,307	106,676	10,058	6,851	5,364	220
Total exports	20,399	120,888	24,288	23,118	22,895	1,707
			Value (1,000 dollars)			
Canada	5,043	5,128	4,313	4,721	11,348	589
Japan	11,120	7,325	7,872	7,458	7,884	391
S Arab	7,174	9,511	9,166	10,210	4,864	297
N Antil	2,406	3,239	3,046	4,068	4,037	524
Bahamas	3,790	3,380	2,920	3,814	3,855	302
Barbado	648	659	713	691	1,843	542
Kor Rep	1,034	933	1,571	1,229	1,269	100
Switzld	895	973	549	930	1,218	13
Lw Ind I	1,152	1,555	1,154	1,136	1,106	65
Hg Kong	306	443	365	527	981	50
All other	11,070	13,606	16,825	12,917	10,175	585
Total exports	44,638	46,752	48,493	47,662	48,578	3,457
			Unit value (per pound)			
Canada	1.72	1.76	1.48	1.52	1.91	1.61
Japan	2.51	2.77	2.66	2.53	2.35	1.42
S Arab	2.88	2.86	2.19	2.11	2.31	2.63
N Antil	1.83	2.28	2.08	1.84	1.90	1.70
Bahamas	2.73	2.30	2.75	2.66	2.41	1.92
Barbado	2.29	1.68	3.06	2.82	3.00	5.02
Kor Rep	.82	.96	3.14	2.80	2.66	3.71
Switzld	3.28	5.68	5.20	3.89	4.06	3.51
Lw Ind I	2.10	2.42	2.00	2.04	2.47	1.76
Hg Kong	1.77	1.74	1.56	2.05	1.74	2.19
All other	2.09	.13	1.67	1.89	1.90	2.02
Average	2.19	.39	2.00	2.06	2.12	2.02

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 13.--Beef (except corned beef) in airtight containers: U.S. exports, 1980-84

Market	1980	1981	1982	1983	1984	
					Year to Date	December
	Quantity (1,000 pounds)					
S Arab	170	877	941	1,142	1,101	0
Bahamas	381	627	680	446	903	169
O Pu Af	0	31	66	28	213	48
Lw Ill I	75	58	21	48	118	6
Cayman	64	60	88	80	150	23
N Antil	131	124	173	125	181	25
Japan	122	162	206	71	100	38
Guinea	14	143	91	27	141	0
Canada	37	2,324	3,202	0	131	0
Ghana	177	80	154	115	89	0
All other	3,226	1,740	1,054	1,410	1,143	54
Total exports	4,398	6,226	6,676	3,491	4,269	363
	Value (1,000 dollars)					
S Arab	215	720	496	651	594	0
Bahamas	207	250	289	161	402	82
O Pu Af	0	53	81	36	168	42
Lw Ill I	142	74	21	48	152	6
Cayman	86	84	99	81	137	20
N Antil	135	122	155	106	137	23
Japan	180	136	216	124	131	44
Guinea	25	217	104	27	121	0
Canada	39	1,643	2,281	0	119	0
Ghana	216	146	226	149	110	0
All other	2,176	1,987	1,188	1,797	1,058	54
Total exports	3,421	5,432	5,156	3,175	3,130	270
	Unit value (per pound)					
S Arab	1.27	.82	.53	.57	.54	.00
Bahamas	.54	.40	.43	.36	.45	.49
O Pu Af	.00	1.72	1.22	1.26	.79	.88
Lw Ill I	1.88	1.27	.99	1.00	1.29	1.01
Cayman	1.34	1.41	1.12	1.02	.92	.87
N Antil	1.03	.98	.89	.85	.76	.91
Japan	1.47	.84	1.05	1.75	1.32	1.19
Guinea	1.79	1.52	1.15	.83	.86	.00
Canada	1.06	.71	.71	.00	.91	.00
Ghana	1.22	1.83	1.47	1.30	1.24	.00
All other	.67	1.14	1.13	1.27	.93	.96
Average	.78	.87	.77	.91	.73	.74

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 14.--Lamb, fresh, chilled, or frozen: U.S. exports, 1980-84

Market	1980	1981	1982	1983	1984	
					Year to Date	December
			Quantity (1,000 pounds)			
Bahamas	256	489	294	262	261	17
Japan	35	12	29	51	326	7
Mexico	207	392	229	145	399	7
Bermuda	108	75	83	95	95	6
Canada	128	127	114	224	177	30
N Antil	27	95	59	7	52	3
Greece	0	0	1/	1/	95	1/
Iw Ihi I	35	46	50	38	51	2
S Arab	55	58	11	1	13	0
France	1	1/	0	12	11	0
All other	328	634	491	418	260	13
Total exports	1,180	1,928	1,341	1,253	1,742	85
			Value (1,000 dollars)			
Bahamas	440	581	466	458	513	41
Japan	96	29	70	91	498	51
Mexico	261	447	216	155	328	6
Bermuda	268	200	218	288	291	17
Canada	192	214	217	328	275	27
N Antil	58	140	54	29	123	8
Greece	0	0	5	5	97	3
Iw Ihi I	57	92	88	52	90	2
S Arab	101	155	28	4	89	0
France	2	7	0	49	67	0
All other	573	633	757	645	598	40
Total exports	2,048	2,497	2,096	2,102	2,970	175
			Unit value (per pound)			
Bahamas	1.72	1.19	1.59	1.75	1.97	2.35
Japan	2.73	2.35	2.41	1.79	1.52	4.25
Mexico	1.26	1.14	.94	1.05	.82	.85
Bermuda	2.49	2.68	2.62	3.03	3.07	2.85
Canada	1.50	1.69	1.90	1.47	1.55	.88
N Antil	2.17	1.47	.86	3.92	2.37	3.14
Greece	.00	.00	17.81	17.87	1.02	17.81
Iw Ihi I	1.60	2.03	1.75	1.36	1.76	1.25
S Arab	1.83	2.68	2.62	3.35	6.86	.00
France	1.38	16.05	.00	4.20	5.97	.00
All other	1.75	1.00	1.54	1.54	2.30	3.11
Average	1.74	1.30	1.56	1.68	1.71	2.06

Source: Compiled from official statistics of the U.S. Department of Commerce.

DEPARTMENT OF THE TREASURY,
Washington, DC, July 2, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for the views of the Department of the Treasury on H.R. 1033, "To prohibit the importation of certain products of Australia and New Zealand." The bill would prohibit the importation of beef, veal, lamb, wool, wool skins, and Australian uranium.

For the reasons stated below, the Department of the Treasury opposes the enactment of H.R. 33.

This bill is protectionist and is contrary to the Administration's free trade policies. In addition, this bill discriminates against two of our closest trading partners and the results of the prohibitions, if enacted, would be inflationary.

Australia and New Zealand provide 75 percent of U.S. imports of beef and veal. Imports supply about 7 percent of U.S. consumption. A ban on imports would increase U.S. meat prices by as much as 10 percent. Most of the imports go into cheaper cuts of meat and hamburger which are consumed by lower income households, hence the price effect on these meat products would be disproportionately greater than on all meat prices. There are no alternative foreign supplies to replace the banned imports (most countries may not export fresh, chilled or frozen beef to the United States because of hoof and mouth disease). Similar price effects would follow a ban on Australian and New Zealand lamb imports which constitute 98 percent of such imports.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

MARGERY WAXMAN,
Deputy General Counsel.

DEPARTMENT OF AGRICULTURE,
Washington, DC, July 1, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee and Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the Department of Agriculture's views on H.R. 1033, a bill "To prohibit the importation of certain products of Australia and New Zealand."

The Department of Agriculture opposes enactment of this legislation.

H.R. 1033 would prohibit the importation of fresh, chilled, frozen and preserved beef and veal from Australia and of fresh, chilled or frozen lamb meat, wool and certain other products from Australia and New Zealand.

Australia and New Zealand could charge that the import restrictions required by H.R. 1033 violate the general ban on import restrictions provided for by Article XI of the General Agreement on Tariffs and Trade (GATT) and are discriminatory in contravention of Article XIII of the GATT.

The Meat Import Act of 1979 already provides for restrictions on the importation of fresh, chilled and frozen beef and veal when imports of these articles exceed a certain level.

These provisions have not provoked foreign retaliation, in part because the operation of voluntary restraint agreements with exporting countries has resulted in quotas not having to be applied.

The office of Management and Budget advises that it has no objection to this report from the standpoint of the President's program.

Sincerely,

JOHN R. BLOCK, *Secretary.*

STATEMENT OF BRYAN JAY YOLLES, COUNSEL, AUSTRALIAN MEAT AND LIVE-STOCK CORPORATION

This Statement is submitted on behalf of the Australian Meat and Live-stock Corporation ("AMLC" or "the Corporation") in opposition to H.R. 1033 and H.R. 2379.[1] As detailed below, the AMLC opposes both bills. If the Subcommittee is inclined to give favorable consideration to either bill, the Corporation respectfully requests that there be a complete hearing on the merits.

I. BACKGROUND

A. The Australian Meat and Live-stock Corporation

Meat production and exportation is a major national industry in Australia. The promotion and operation of this export industry is important to the Australian economy, and in particular to the business and agricultural sectors. To maintain an effective focus for these interests, the AMLC was created on December 1, 1977 as a statutory corporation pursuant to an Australian federal statute, the Australian Meat and Live-stock Corporation Act 1977, as amended. The Corporation replaced the Australian Meat Board, a predecessor body with similar function which was formed in 1935. The AMLC has the statutory responsibility and jurisdiction to oversee and coordinate all aspects of the Australian meat industry, including the representation of Australian exporters and the control of meat exports from Australia to the United States.

The Corporation has eleven directors constituting a cross-section of the Australian meat industry and the Australian business community. One director of the Corporation is appointed by the Australian Government. The AMLC is supported by a full-time professional staff with representatives posted in key areas around the world. Each area office maintains surveillance for marketing opportunities and observes and reports on such matters as the handling and transportation of Australian meat, its distribution, and customer acceptance. One such representative office is located in New York City.

B. Importation of meat

Beef imports make up approximately seven percent of the total U.S. beef supply. Australia is the largest supplier of imported manufacturing grade beef to the United States and Australia accounts for approximately 50 percent of the U.S. imported beef market. Beef exports are Australia's largest single item of trade with the United States.

Australia generally exports cartons of frozen, boneless beef to the United States. The product is shipped in refrigerated containers and reaches the United States in frozen cartons typically weighing about sixty pounds each. These cartons are imported in lots pursuant to bulk contracts between U.S. importers and Australian exporters. The lots are then traded by the importer and ultimately reach a processor or "end-user" engaged in the manufacture of meat products.

During the Corporation's 1983–1984 fiscal year, Australia exported approximately 241,000 tonnes of frozen, boneless beef to the United States. The value of this product, which represented 53.5 percent of Australia's worldwide beef exports, was $543 million.

It is important to understand that Australian beef exports are not in competition with the great preponderance of domestic beef products; rather, they complement each other. Australian beef is grass-fed, as opposed to corn fed, and the beef exported from Australia is thus a lean product. The vast majority of Australian beef exports to the United States is blended with the fatty trimmings from U.S. fed beef to produce acceptably-lean hamburger. Australian beef imports therefore provide a valuable lean supplement to U.S. domestic beef which benefits the U.S. cattle industry as well as U.S. consumers. Since U.S. beef imports are already subject to quantitative controls under the Meat Import Act of 1979, any impairment of Australia's ability to ship meat to this market would adversely affect Australia's ability to purchase U.S. products and would create an even greater imbalance of trade, which presently runs more than 3 to 2 in favor of the United States.

---

[1] This material is prepared, edited, issued, and circulated by Clifford & Warnke, 815 Connecticut Avenue, N.W., Washington, D.C. 20006, who is registered under the Foreign Agents Registration Act of 1968, as amended, as an agent of the Australian Meat and Live-stock Corporation. This material is filed with the Department of Justice where the required registration statement is available for public inspection. Registration does not indicate approval of this material by the United States Government.

II. THE BILLS UNDER CONSIDERATION

Two bills before this Subcommittee relate to the importation of meat and meat products.[2] H.R. 1033 would impose a blanket prohibition on the importation of beef, veal, and lamb from Australia and New Zealand. In general, H.R. 2379 would amend the Federal Meat Inspection Act to prohibit the importation of live animals and meat products from countries having standards for the use of the antibiotics chloramphericol and dimetridazole in food-producing animals that are different than those in force in the United States.

III. SUMMARY OF THE POSITION OF THE AMLC

The AMLC opposes the provisions of these two bills as based on faulty factual premises and contrary to principles of international trade. H.R. 1033 is a misguided and unprecedented attempt to terminate the long-standing beef trade between Australia and the United States. H.R. 2379 is premised on the ill-conceived notion that the United States should prohibit imports from nations which do not have the exact same standards as the United States for the regulation of agricultural chemicals and drugs. This bill would have the effect of banning the importation of Australian beef entirely because, under the language of H.R. 2379, the Australian standards governing the use of chloramphenicol and dimetridazole are not as "stringent" as those standards under U.S. law. Uniform international standards for chemical residues in agricultural products should be pursued through already-established international forums—not by piecemeal legislation in the United States. Specific objections to both bills are detailed below.

A. H.R. 1033

H.R. 1033, which would impose an unconditional ban on the importation of certain products from Australia and New Zealand, reflects solely emotional motivations: resentment about a purported lack of support for U.S. defense policy on the part of Australia and New Zealand. It rests on no considerations of sound trade policy.

As such, H.R. 1033 is inconsistent with the overall statutory scheme governing beef imports set forth in the Meat Import Act of 1979, 19 U.S.C. § 1202, 93 Stat. 1291 (1982). In addition, the legislation also flies in the face of a 1979 Multilateral Trade Negotiations ("MTN") commitment between Australia and the United States which specified a guaranteed minimum level of access for Australian meat imports. *See* Agreed Record Of Conclusions Reached In Bilateral Negotiations Between United States And Australia In The GATT Multilateral Trade Negotiations Tokyo Round, March 29, 1979, —— U.S.T. ——, T.I.A.S. No. 9975. Finally—and ironically—the bill would harm the U.S. economy since, as noted above, the vast majority of Australian beef imports provide an outlet for the U.S. beef products with which they are blended. H.R. 1033 cannot be justified by any U.S. trade policy interests. Accordingly, it should be rejected by the Subcommittee.

B. H.R. 2379

1. H.R. 2379 could effectively ban all imports of Australian meat from the U.S. market because, under Australian law, chloramphenicol may be used for limited ophthalmic purposes

The antibiotic chloramphenicol is prohibited for use in U.S. domestic production of all meat-, egg-, or milk-producing animals. *See* 21 C.F.R. § 555.110(e). To enforce this prohibition, the United States Department of Agriculture ("USDA") and the Food and Drug Administration ("FDA") have implemented domestic residue monitoring programs to detect violations in animal tissue at concentrations at or above the limit of determination (10 p.p.b.).

---

[2] There is a third bill pertaining to beef imports which is not before this Subcommittee: the Agricultural Fair Trade Act ("AFTA"). This bill, introduced as H.R. 2407 and S. 1049, is being considered as part of the 1985 Farm Bill. The legislation raises issues pertaining to meat importation requirements and inspection standards. Specifically, the bill would institute mandatory consultation requirements on animal and plant inspections, lengthy inter-agency and advisory panel proceedings, agricultural attache reports, a study of sanitation standards, country-of-origin labeling, and various restrictions to combat "unfair trade practices." All of these proposals would constitute significant non-tariff trade barriers to the importation of Australian meat and, for this reason, the AMLC opposes the AFTA. The country-of-origin labeling proposal, in particular, would impose restrictive and discriminatory labeling requirements on imported beef. In this regard, it is noted that there is already adequate law in effect to ensure that imported meat is properly labeled. *See* The Federal Meat Inspection Act, 21 U.S.C. § 620(a) (1982) (requiring that all meat products, imported or domestic, be properly marked, labeled, and packaged.).

With respect to imported meat, current U.S. law requires that all meat and meat products imported into the United States meet the standards for inspection, sanitation, quality, species verification, and residue testing applicable to domestically-produced meats. *See* Federal Meat Inspection Act, 21 U.S.C. § 620(f) (1982). Thus, meat and meat products which are produced using chemnicals or drugs not approved for the same use in the U.S. may be imported provided they do not exceed USDA, FDA, or Environmental Protection Agency approved tolerance levels.

Australian law permits limited usage of chloramphenicol. Specifically, the Australian National Health and Medical Research Council took action in 1984 to prohibit all but opthalmic uses of chloramphenicol in food-producing animals. Chloramphenicol would thus be used selectively, but rarely on individual animals in the Australian herd. Mostly, these would be breeding cattle of sufficient value to warrent the expense of treatment under pasture grazing conditions. If treated, these animals would not be slaughtered until a substantial period had lapsed followinig treatment. Under Australian regulations, all chloramphenicol preparations are "Schedule 4," which means they can only be obtained by the prescription of a licensed veterinary surgeon. Notably, under the U.S. residue monitoring programs conducted by USDA and the FDA, there have *never* been any reported violative residues of chloramphenicol in Australian beef imports.

The extremely limited use of chloramphenicol in Australia, however, is in some respects of secondary importance in considering H.R. 2379. What is of primary concern to the AMLC is the underlying premise of this bill: that it is appropriate to enact blanket legislation prohibiting importation of products if the drug program of an exporting nation is in any way at variance with that program specified under U.S. law. Such a notion is simply irrational when applied to Australian beef imports because it fails to take into account that country's unique climatic conditions and disease problems associated with cattle raising. It is also directly inconsistent with current United States export policies and could, if enacted, lead to retaliatory legislative action by other countries to restrict U.S. agricultural exports.[3]

The practical effect of legislation like H.R. 2379 would be to prohibit importation of all Australian beef—irrespective of whether residues of chloremphenicol were present in beef. This is because Australian law approves of the usage of chloramphenicol solely for opthalmic purposes; however, the importation of cattle, beef, and beef products into the U.S. woud be banned under H.R. 2379 since the Australian standards would not be "as stringent as those applicable at the time" under U.S. law. This flat prohibition would be invoked even though, as noted, the use of this antibiotic in Australia is tightly restricted.

In this regard, the Subcommittee should be aware that differences in environment, production systems, and pest and disease patterns dictate that premitted drug compounds and their registered uses will differ between United States and other countries. Australia enforces a stringent animal drug evaluation and registration procedure, which ensures that only safe, efficacious drugs of direct relevance to Australia's animal health needs may be approved for use. Further, Australia's national residue monitoring program serves to detect instances of misuse of drugs in food animal species. It thus appears to the AMLC that H.R. 2379 is motivated more by trade protectionist concerns than be health and safety considerations.

2. H.R. 2379 would effectively ban all imports of Australian pork from the U.S. market because, under Australian law, dimetridazole may be used for purposes not authorized under U.S. law

Under U.S. law, dimetridazole is prohibited for usage in species other than turkeys. It is employed as a food additive in turkey rations, at 0.015 to 0.02 present concentrations, as an aid in the control of histomoniasis. *See* 21 C.F.R. § 558.240. Addional restrictions imposed on the use of dimetridazole include a maximum seven-day treatment and withdrawal five days prior to slaughter. 21 C.F.R. § 556.210. The analytical method prescribed by the USDA to test for residues has a limit of determination of 2 p.p.b. for dimetridazole in turkey muscle.

In Australia, dimetridazole may be used as a histomonostat additive in poultry and pig feeds. The compound may not be fed to laying birds. A maximum residue limit of 0.05 ppm for dimetridazole has been established for poultry, and of 0.1 ppm for pigs. The compound must be withdrawn from pig and poultry rations at least five days prior to slaughter. It may not be used at all for beef or lamb.

Since it is estimated that Australia will export approximately one-half million pounds of Australian pork (principally in the form of offals) to the United States in 1985, the proposed legislation would adversely affect this trade. Moreover, as with

---

[3] *See* pp. 13-14 *infra*.

respect to chloramphenicol, because Australian law approves usage of dimetridazole in certain circumstances which differ from those of the United States, the importation of any and all Australian meat and meat products into the United States could be banned as the Australian standards would not be "as stringent as those applicable at the time" under U.S. law. As pointed out above, there is no scientific or health basis for imposing this trade restriction, and Australia should be permitted the opportunity to treat its unique pest and disease control problems. The unreasonable nature of this proposed legislation is underscored by the fact that it would prevent for import of Australian beef although dimetridazole is not even used in Australian beef products.

3. Australia has consistently complied with U.S. residue standards despite differing agricultural practices and needs requiring the limited use of chloramphenicol and dimetridazole in some food-producing animals

H.R. 2379 implies that existing laws governing inspection and residue testing of imported meat are somehow inadequate, and that new legislation is needed to prevent meat with excessive residues from being shipped into the United States. This assumption is simply incorrect. As noted earlier, current law—the Federal Meat Inspection Act—already requires that all Australian meat and meat products imported into the United States meet the exact same standards for inspection, sanitation, quality, species verification, and residue testing applicable to domestically produced meats. 21 U.S.C. § 602(a) (1982).

To comply with U.S. law, Australia has established USDA-certified monitoring programs for exported meat that utilize approved methodologies to determine residue levels in products. In addition, the meat that Australia exports is produced under official Australian government inspection controls which are subject to onsite inspections by USDA veterinarians. Finally, a random selection from a large number of individual consignments of meat is partially thawed at the point of entry for USDA inspection, and in some cases, samples are taken for residue analysis at official USDA laboratories. To repeat, neither Australian nor U.S. import residue monitoring programs have ever detected violative residues of chloramphenicol or dimetridazole in Australian meat or meat products. Despite Australia's excellent record and the obvious success of current U.S. laws regulating inspection and residue testing, the legislation under consideration would prohibit the importation of meat unless Australian standards exactly parallel those of the United States.

4. The provisions of H.R. 2379 are in contravention of U.S. trade policy and international obligations

H.R. 2379 imposes a double trade standard and is in fact inconsistent with current U.S. trade practices. Because of this, enactment of this bill could invite retaliation by countries who would be authorized to withdraw trade concessions of equivalent value to U.S. exports. For example, use of the drug Ethylene Dibromide ("E.D.B.") to treat fruits and vegetables is prohibited for produce sold in the United States, but E.D.B. is used on fruits and vegetables exported from the United States to Japan and other countries. Moreover, and by way of further example, the United States employs certain pesticides in conjunction with tobacco farming that are prohibited within other countries. Under the rationale of legislation like H.R. 2379, U.S. tobacco exports would be susceptible to retaliatory legislation in other nations.

If the United States were to require that all exporting countries comply with U.S. standards of those countries importing U.S. agricultural products. Such reciprocal and retaliatory legislation could cause serious harm to U.S. agricultural exports. The AMLC submits that the attainment of more uniform international standards for chemical residues in agricultural products would more appropriately be pursued through existing international forums (e.g., World Health Organization, the Food and Agriculture Organization of the United Nations) already organized to deal with this subject matter.

IV. CONCLUSION

The AMLC respectfully submits that H.R. 1033 and H.R. 2379 are not in the public interest and that their passage would have a deleterious effect on U.S. international trade policy. If H.R. 2379 were enacted, it would establish the mischievous precedent that exporting nations must copy U.S. regulatory standards governing pesticides and veterinary drugs—irrespective of the unique pest and disease control problems of such countries. If consideration is being given to reporting either bill favorably out of the Subcommittee, the Corporation requests that it be given an opportunity to explain its reasons for opposing this legislation at a complete hearing.

STATEMENT OF WILLIAM C. MORRISON, EXECUTIVE VICE PRESIDENT, MEAT IMPORTERS COUNCIL OF AMERICA, INC.

I. INTRODUCTION

These comments are submitted by William C. Morrison in his capacity as Executive Director of the Meat Importers Council of America, Inc. whose full address and telephone number are set out above.

The Meat Importers Council of America, Inc. ("MICA") is an incorporated trade association whose members represent most of the import trade in fresh, frozen beef, lamb and veal. MICA's membership totals over 200 companies including those who import said products, as well as those involved in its handling, transportation, distribution, use, and related areas. The most recent published list of MICA member companies is attached hereto.

II. SUMMARY OF COMMENTS

Background

Most imported fresh, chilled or frozen meat is beef which is used as one ingredient in the manufacture of traditionally affordable consumer items such as hamburger and sausage. Though small in quantity, it has a significant role which benefits both consumers and cattle producers. Importation of this product is governed by many restrictions under present law; and adding to these restrictions should be avoided unless absolutely necessary.

H.R. 1033

This bill, which would embargo imports of meats and other principal products from Australia and New Zealand should not be seriously considered because it would treat some of our closest allies in a manner appropriate only for hostile regimes, for political (rather than trade) reasons, while destroying the U.S. meat importing industry in the process.

H.R. 2379

The bill as drafted would impose a mandatory and immediate ban on all meat from any country whose laws as to the use of certain antibiotics did not equal or exceed those of the U.S. in restrictiveness. This would cause serious, unnecessary, unintended and harmful disruptions, create a very bad precedent, and invite similar treatment from our export markets.

If either bill is to be given serious consideration, it should be the subject of full hearings.

III. BACKGROUND

Most imported fresh chilled or frozen meat is manufacturing grade beef which is subjected to significant manufacturing and processing operations after importation. These operations, in conjunction with other (usually domestic) raw materials, substantially transform the meat into new and different articles of commerce. Imported fresh, frozen beef is a lean, grass-fed product. Typical uses would include grinding with fatter trimmings from U.S. fed beef to produce hamburger, comminuting with various other materials to produce sausage, or use in the form of tiny cubes or pieces which are cooked in canned or frozen entree dishes. All imported meat is marked in conformity with 19 U.S.C. 1304, as amended. In those instances where imported meat enters this country in the form in which it will reach the U.S. consumer, (leg of lamb, for example), each individual consumer article is clearly labeled to indicate the country of origin. In instances where the product will be used in manufacturing, the carton is marked to indicate the country of origin to the ultimate purchaser.

Imported beef does not displace U.S. beef, but represents a valuable lean supplement which benefits U.S. consumers and U.S. cattle producers alike. Imported beef historically represents a maximum of only about 7% of U.S. beef supply. Despite this small volume, such imported meats are subjected to unique quota restrictions. In addition, of course, there are strict U.S.D.A. wholesomeness regulations to be complied with. In considering any new legislation to this imported product, the Congress should, we suggest, bear in mind that it is already highly restricted and wherever possible measures adding to the network of restrictions which already apply should be avoided.

II. H.R. 1033

This bill would bar importation of certain products from Australia and New Zealand, including meat. On the basis of statements made by supporters, it appears that the purpose of this bill would be to retaliate against Australia and New Zealand for political reasons having nothing to do with international trade.

Approximately 50% of the fresh, frozen beef imported into the United States normally comes here from Australia and approximately 25% normally comes from New Zealand. To prohibit such importations would, thus, cut off most of the supply of this product. This would have devastating consequences for the processed food industries which depend upon it. Even though imported beef represents only a small part of overall U.S. supply, it is not interchangeable with U.S. production, and many users would have no alternative supply.

Such prohibition would impact seriously upon U.S. consumers in terms of price and availability of product, and it would harm domestic cattle producers by eliminating a product which now upgrades otherwise low-value fat trimmings.[1] In addition to all of the foregoing, eliminating the bulk of imports would destroy the meat importing industry, thereby needlessly penalizing or destroying U.S. businesses employing thousands of people.

Australia and New Zealand have been among the closest allies of the United States throughout modern times. Use of a trade embargo, a drastic measure which in recent years has been employed only against governments or regimes perceived to be hostile to the United States, *i.e.* in Poland and Nicaragua, would represent a gigantic overreaction to any policy differences between the governments of our countries, whether real or imagined.

III. H.R. 2379

This bill would prohibit importation of meat from countries which did not have restrictions on the use of certain antibiotics at least as stringent as those in the United States.

The MICA supports the continued study of the effect of using antibiotics in the production of meat, and appropriate regulatory responses to any actual or possible negative effects thereof.

MICA also supports the provision of the bill (Sec. 2) which would provide for international cooperation in this regard. This is an area where maximum uniformity between the countries that trade in meat products is highly desirable. This is equally important to U.S. beef producers who seek greater export markets in Japan, and elsewhere.

However, it is dangerous, we believe, to create a mandatory unilateral prohibition of the sort contained in the bill. Congress should be aware of the fact that climatic, health, and other conditions are different in different parts of the globe. Health measures appropriate in Oceania or other countries are not precisely equitable to conditions prevailing in the United States. It would be unwise policy to provide, in effect, that whenever the Congress of the United States enacts a restriction, or a federal agency or department operation under delegated authority promulgates a restriction, that restriction is immediately applicable to the world in general. This could create many problems, doubtless unintended, but nonetheless very serious. Some examples follow:

(a) Climate, animal health considerations, and ecology in general are different in the United States and other parts of the world. Thus, it is quite likely that situations exist abroad where limited use of the antibiotics in question is reasonably permitted, and where such situations simply do not exist in the United States. Nevertheless, foreign restrictions would arguably be less stringent than those here and the production of the entire country would be barred even though the antibiotic, in fact, might not be used there at all.

(b) The proposed statutory language is so sweeping that *any* single perceived instance of less stringency in a trading partner's laws would disqualify all meat from the entire nation. For example, if county X allowed use of one of the antibiotics to

---

[1] Particularly in view of recent consumer dietary preference shifts in favor of leaner beef products, high fat content trimmings have little inherent value by themselves. Alone they are essentially scrap useful only for salvage purposes such as rendering to make tallow products like soap and candles. However, by grinding such material with appropriate amounts of very lean imported meat, a lean hamburger product is produced, and the fat product is upgraded to sell to the consumer for over $1.00 per pound.

combat a sheep disease, this apparently would disqualify exports of beef, veal, mutton, pork, etc.[2]

(c) Even if a foreign country were prepared in a given instance to conform its restrictions to our own, time would be required to accomplish this purely as a matter of compliance with required legal procedures.

(d) While the present bill is limited to two antibiotics, it would be a precedent for imposition of highly specific rules, substance by substance, on an extra-territorial basis.

(e) If other nations adopted the same approach, all trade would end until a uniform body of international laws could be achieved. Such uniformity might be a desirable goal, but trade should not be sacrificed to bring it about.

(f) Rather than the proposed mandatory, Draconian provision, it would be preferable to give the Secretary of Agriculture discretion to employ in working towards stated goals.

The problem lies not in the aim of the bill, but in the mandatory, inflexible and sweeping manner in which the aim would be sought. As a minimum there should be provision for advance consultation between countries, sufficient time for compliance, discretionary authority to the Secretary of Agriculture in application of the provisions, and careful re-drafting to limit the measure to what is really intended.

CONCLUSION

H.R. 1033 should not be given serious consideration. H.R. 2379 may be directed at a worthwhile goal, but should not be found acceptable without substantial revision. If either or both bills are given serious consideration they should be the subject of full hearings on the merits.

(Attachments to this statement have been retained in the committee files.)

[2] In this connection the prefatory "notwithstanding any other provision of law" would make it difficult to interpret the provision *in pari materia* with the statutory scheme into which it is proposed to inject it.

H.R. 1135

To amend the Tariff Schedules of the United States to prohibit the importation of coal and of certain articles of uranium, if the product of the Republic of South Africa or Namibia

U.S. International Trade Commission

Section-by-section analysis

H.R. 1135, if enacted, would amend the Tariff Schedules of the United States (TSUS) to prohibit the importation of coal and certain articles of uranium from the Republic of South Africa or Namibia. These amendments would apply to articles that are imported into the United States on or after the date of enactment of the bill.

The bill would amend subpart C of part 2 of schedule 4 of the Tariff Schedules by adding immediately after headnote 1 the following new headnote:

"The entry, or withdrawal from warehouse for consumption, of uranium compounds provided for in items 422.50 and 422.52 which are the product of the Republic of South Africa or Namibia is prohibited."

The bill would also amend subpart J of part 1 of schedule 5 by inserting immediately before item 521.11 the following new headnote:

"Subpart J headnote:

1. The entry, or withdrawal from warehouse for consumption, of coal provided for in item 521.31 which is the product of the Republic of South Africa or Namibia is prohibited."

The proposed legislation would also amend the headnotes to Schedule 6 of the Tariff Schedules by inserting at the end thereof the following new headnote:

"The entry, or withdrawal from warehouse for consumption, of uranium ore provided for in item 601.57, or uranium metal however provided for in item 629.50, which is the product of the Republic of South Africa or Namibia is prohibited."

Sponsor's justification

According to the sponsor, the primary purpose of the proposed bill is humanitarian and not economic in nature. By implementing this bill the United States would be sending a clear message to the Republic of South Africa and Namibia that they must abandon their policy of apartheid if they hope to continue to do business with the United States.[1] The prohibition would apply to imports of coal and certain articles of uranium rather than of other articles of trade for reasons that are essentially economic in nature, however. Both the coal and uranium mining industry have been depressed in recent years. Imports of coal and uranium into the United States have already aggravated the poor economic condition of the domestic coal and uranium mining industries. According to the sponsor, by prohibiting imports of coal and uranium from South Africa and Namibia, the effect of the legislation would be not only to send a message to South Africa and Namibia but also to assist two ailing industries in the United States.[2]

Another reason for the prohibition of imports of coal and uranium rather than of other articles of trade relates to concern that the United States is becoming overly dependent on these imports from the Republic of South Africa or Namibia. According to the sponsor, all U.S. steam coal imports in 1981 and 1982 came from the Republic of South Africa. Similarly, the Republic of South Africa has become the largest source of foreign origin uranium for Department of Energy (DOE) enrichment plants.[3] According to the sponsor, enactment of the proposed legislation would

---

[1] Statement by the Honorable Charles B. Rangel, The Congressional Record, Feb. 21, 1985, p. E574.

[2] Based on conversation with a legislative assistant to Congressman Rangel.

[3] Dear Colleague letter from Congressman Charles B. Rangel, *Halt South African Coal and Uranium Imports*, Mar. 6, 1985.

therefore ensure that the United States would not develop a dangerous dependency on critical materials from the Republic of South Africa or Namibia while they continue to advocate policies that are inconsistent with democratic values and the national interest.

Effect on revenue

Of the products included in the proposed bill only uranium metal (TSUS 629.50) is currently dutiable. Since there were no U.S. imports of uranium metal from the Republic of South Africa or Namibia during 1980–84, it appears that enactment of this bill would have little or no effect on annual customs revenue.

Technical comments

The proposed prohibition does not have a fixed term, and there is no indication in the bill as to what the Republic of South Africa and Namibia must do in order to be considered to have abandoned the policy of apartheid. One possible amendment might provide for a review procedure by which the trade sanctions could be lifted should the policies of South Africa and Namibia change.

GATT comments

If this bill were enacted, South Africa might allege that such U.S. action violates Article XIII:1 of the General Agreement on Tariffs and Trade (GATT).[4] Article XIII:1 prohibits the application of a prohibition on imports of another contracting party unless the importation of the like product of all third countries is similarly prohibited. However, Article XXI(c) allows for an exception to the Agreement where any of its provisions would prevent a contracting party from taking actions in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.[4]

U.S. imports

Uranium compounds.—Imports of uranium compounds from South Africa in 1983 amounted to about 2,038 short tons. This was about 25 percent of total U.S. imports of these products and about 8 percent of total U.S. consumption.

Coal.—Imports of coal from South Africa in 1984 amounted to about 612,000 short tons. This represented about 33 percent of total U.S. imports of coal and about 0.08 percent of U.S. domestic consumption.

Uranium ore and metal.—There were virtually no imports of uranium ore during 1983. Uranium metal imports in 1983 amounted to 74 short tons, valued at $627,000, or 0.001 percent of apparent domestic consumption. The latest year for which domestic consumption data are available was 1983. South Africa supplied a very small amount of total U.S. imports of these products.

U.S. employment

Uranium compounds.—Employment of U.S. workers in uranium mills has declined 53 percent from 3,251 employees in 1980 to 1,518 employees in 1984.

Coal.—Employment in the U.S. coal industry has declined 22 percent from 224,297 employees in 1979 to 175,642 in 1983.

Uranium ore and metal.—Employment in the uranium mining and exploration industry declined from about 19,000 in 1979 to about 5,000 in 1983, or by about 74 percent.

The remainder of this report will consist of the following three sections providing for a separate discussion of each of the three product categories involved in this legislation:

I. Uranium compounds;
II. Coal;
III. Uranium ore and metal.

I. URANIUM COMPOUNDS

Description and uses

The most important compounds of uranium commercially are the oxides, uranium yellowcake (U_3O_8) and uranium dioxide (UO_2), and the fluorides, uranium hexafluoride (UF_6) and uranium tetrafluoride (UF_4). All of these compounds are produced in the transformation of uranium ore to uranium dioxide fuel pellets.

About 90 percent of uranium employed commerically is used as a fuel in nuclear power reactors. Before uranium ore can be used by an electric utility to generate

---

[4] No such U.N. resolution is currently in effect concerning imports of coal or uranium from South Africa.

power it must be converted to the chemical compound, uranium yellowcake. The uranium yellowcake is then converted to uranium hexafluride, which is then enriched in its content of the fissionable uranium isotope, U_{235}. Finally, the enriched uranium hexaflouride is converted to uranium dioxide that is prepared as a fuel pellet for shipment to nuclear power plants.

Prior investigations

Recent investigations concerning the effects on the domestic industry of U.S. imports of uranium and federal regulation of unanium imports were prepared by the DOE's Energy Information Administration. In March 1983, in response to a request by the Chairman of the U.S. Senate Subcommittee on Energy Research and Development, the DOE issued a report entitled *World Uranium Supply and Demand: Impact of Federal Policies.* The report analyzed the probable effect on the future U.S. market for uranium of six policy alternatives which could be adopted to protect the domestic uranium industry from foreign competition or from fluctuations in demand or prices. The report also assessed foreign supply and demand for uranium and assessed how adequately the U.S. Government monitored imports of uranium.

In May 1984 the President, through the DOE, issued a report entitled *United States Uranium Mining and Milling Industry: A Comprehensive Review.* The report reviewed the status of the U.S. uranium mining and milling industry and provided projections through the year 2000 for uranium requirements and inventories, domestic production, import penetrations, domestic and foreign ore reserves, and other criteria. The report also assessed the effect on the uranium industry were import restrictions to be enacted by Congress.

The report *Domestic Uranium Mining and Milling Industry: 1983 Viability Assessment,* issued December 1984, was used to assist the Secretary of Energy in determining whether the uranium mining and milling industry was viable in 1983. Under Section 170b of the the Atomic Energy Act of 1954, as amended in 1983 by Public Law 97-415, the Secretary of Energy is required to make a determination annually as to the viability of the domestic uranium and mining industry for the years 1983-1992. The 1983 report provided information on uranium supply, demand, and marketing conditions and analyzed the capability of domestic industry to meet domestic demand requirements were uranium imports disrupted. The report also examined the uranium import commitment dependency of U.S. utilities.

Comparison with present law

Tariff treatment under the TSUS.—Uranium compounds are classified in items 422.50 and 422.52 of the TSUS. The column 1[5] and column 2[6] rates of duty for each of these items are free. No duty rates are provided for least developed developing countries (LDDCs).[7] These tariff items are not eligible for the Generalized System of Preferences (GSP),[8] but articles from eligible Caribbean countries may qualify for the Caribbean Basin Economic Recovery Act (CBERA).[9] Staged rate reductions were

---

[5] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preference (GSP) or the Caribbean Basin Economc Recovery Act (CBERA), or under the LDDC rate of duty column.

[6] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[7] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concesaion rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[8] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1983. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[9] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until Spetember 30, 1985. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

not negotiated for items 422.50 and 422.52 during the Tokyo Round of Multilateral Trade Negotiations (MTN).

Tariff treatment under the Proposed Harmonized System (HS).-- 1/

Heading	Article description	Rates of duty column 1 General
2844.10.20	Uranium compounds (natural uranium)	Free
2844.20.00.10	Uranium oxide (enriched)	Free
2844.20.00.20	Uranium fluorides (enriched)	Free
2844.20.00.30	Other uranium compounds (enriched)	Free
2844.30.20	Uranium compounds (depleted in U_{235})	Free

1/ Source: Trade Policy Staff Committee, Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System (September 1984).

Nontariff import controls.—The U.S. Government has remained the sole provider of uranium enrichment services in the United States. Restrictions on the enrichment of foreign origin uranium for the domestic market, rather than the imposition of duties, were the traditional means the U.S. Government used to control imports of uranium into the United States until these restrictions were phased out as of January 1984.

In 1966 the Atomic Energy Commission (AEC) announced that it would not provide enrichment services for foreign uranium intended for use in domestic facilities. The effect was a complete embargo of foreign uranium for domestic use to ensure that sufficient domestic production capacity would be developed to meet future domestic requirements. By the 1970's the AEC ruled that the domestic uranium industry had grown sufficiently so that the industry would remain viable even if restrictions on enriching foreign origin uranium for the domestic market were eased. The AEC implemented a plan to gradually phase out restrictions on enrichment of foreign origin uranium during 1977-83. By January 1, 1984 these restrictions were lifted completely.

Section 23(b) of the Nuclear Regulatory Commission Authorization Act of 1983 (Public Law 97-415) contains at least two provisions which could be used to reimpose restrictions on uranium imports should circumstances warrant it. According to this law, if the Secretary of Energy determines that uranium is being imported in such increased quantities as to be a substantial cause of serious injury or threat to the U.S. uranium industry, the United States Trade Representative must ask the U.S. International Trade Commission to initiate an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251). According to another provision of the Nuclear Regulatory Commission Authorization Act, if the Secretary of Energy determines that then existing contracts or options for foreign-origin uranium constitute greater than 37.5 percent of domestic uranium requirements for a consecutive 2-year period, or if the Secretary of Energy feels that the level of import contracts may threaten to impair the national security, the Secretary of Energy must ask the Secretary of Commerce to carry out, under Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), an investigation of the national security impact of uranium imports.

Structure of the domestic industry

Because of decreased market demand for uranium and increased competition from foreign uranium producers, only 12 conventional uranium mills for the conversion of uranium ore to uranium yellowcake operated during 1983, compared with 22 in 1980, and these 12 operated at only 58 percent of capacity in 1983. Total rated capacity of these operating uranium mills declined from 51,050 short tons of ore per day in 1980 to 29,250 short tons of ore per day in 1983. All of the conventional uranium mills operating in the United States are located in the States of Utah, Wyoming, New Mexico, Colorado, Texas, and Washington.

As a result of reduced domestic production of uranium compounds, employment by U.S. uranium mills fell from 3,251 in 1980 to 1,518 in 1983. In 1983 31 percent of total employment in uranium milling was in Wyoming, 27 percent in New Mexico, and 32 percent in Colorado and Utah combined.

Allied Chemical and Kerr-McGee maintain facilities located in Illinois and Oklahoma for the upgrading of uranium yellowcake to uranium hexafluoride. Uranium enrichment is provided in the United States exclusively by the DOE in facilities located in Kentucky, Ohio, and Tennessee. The conversion of uranium hexafluoride to uranium dioxide fuel pellets is provided by Babcock and Wilcox, Combustion Engineering, Exxon Nuclear, General Electric, and Westinghouse Electric and General Atomic in facilities located in North and South Carolina, Virginia, Connecticut, Washington, and California.

Domestic production

U.S. production of uranium yellowcake, which peaked at 21,850 short tons in 1980, declined to 10,550 short tons in 1983 and to an estimated 7,500 short tons in 1984 (table 1). According to industry sources, U.S. production of uranium compounds declined during 1980–84 in response to weak market demand for uranium and increased competition from foreign uranium producers.

The depressed market for uranium yellowcake producers was aggravated by excess inventories that electric utilities had acquired in anticipation of increased demand. These inventories increased from 54,400 short tons on January 1, 1981 (including natural and enriched uranium) to 75,000 short tons on January 1, 1984.

U.S. imports

U.S. imports of uranium compounds, much of which is uranium yellowcake or the upgraded material, uranium hexafluoride, grew from 1,500 short tons [10] in 1979 to 3,300 short tons in 1981 and to 4,100 short tons in 1983 (table 1). Generally, only a portion of U.S. imports of uranium was delivered to DOE plants for domestic end use (table 2). The remainder of the imports was either placed in inventory or enriched and reexported to the supplying country. In 1983 about two-thirds of total uranium imports came from Canada and about one-quarter came from South Africa. However, in that year South Africa was the largest supplier of foreign-origin uranium for DOE enrichment plants (table 2). Industry analysts estimate that in 1984 U.S. imports of uranium compounds rose to more than 4,700 short tons.[11] The share of apparent consumption of uranium compounds in the United States that was accounted for by imports grew from 9 percent in 1979 to 16 percent in 1981 and to 32 percent in 1983 (table 1). U.S. imports of uranium compounds increased in part because of the phasing out of restrictions in the amount of foreign-origin uranium that can be enriched by the DOE, the sole provider of enrichment services in the United States. On January 1, 1984 these restrictions were lifted completely.

U.S. imports of uranium compounds increased because most uranium that is imported is considerably less expensive than the domestic material. Canadian-produced uranium ore, for example, typically yields about 10 to 15 times as much uranium concentrate as that produced by the United States.[12] Thus, uranium compounds can be made cheaply from Canadian material. South African uranium is less expensive than uranium mined in the United States because the South African uranium is produced as a by-product of gold refining. In addition to increasing in volume, uranium imports to the United States are changing in composition as foreign producers attempt to replace exports of uranium yellowcake to the United States with exports of the higher value-added product, uranium hexafluoride.

U.S. exports

U.S. exports of uranium compounds, much of which went to Japan, Western Europe, or Taiwan, decreased from 3,100 short tons in 1979 to 2,200 short tons in 1981 (table 1). U.S. exports decreased from 3,100 short tons during 1982 to 1,650 short tons in 1983 and to an estimated 1,000 short tons in 1984.[13] U.S. exports declined during 1980–84 as a result of the increased energy conservation measures taken by most developed countries, reducing their need for additional nuclear fuel. The United States also faced increased export competition from Canada and South Africa because of the lower production costs for uranium in those two countries.

Apparent U.S. consumption

U.S. apparent consumption of uranium compounds [14] declined slightly from 20,800 short tons in 1980 to 18,900 short tons in 1982, but then declined sharply to

---

[10] In terms of U_3O_8 content.

[11] The large amount of imports in 1982 (8,550 short tons) was due in part to a large exchange transaction involving foreign-origin material and does not appear to represent a trend.

[12] *Chemical Week*, Apr. 11, 1984, p. 13.

[13] U.S. exports of uranium compounds during 1979–81 are not comparable with those during 1982–83 because export figures for 1979–81 represent exports by U.S. uranium producers only, while those for 1982–83 also include exports by U.S. utilities.

[14] Based on consumption of the primary product, uranium yellowcake.

13,000 short tons in 1983 and to an estimated 11,200 short tons in 1984 (table 1). U.S. consumption of uranium compounds was adversely affected by nuclear plant shutdowns and delayed plant openings caused by increased costs for nuclear power plants, lower than expected growth of electrical power requirements, regulatory changes and uncertainty largely caused by the accident at the Three Mile Island nuclear facility, successful competition from nonnuclear power plants (especially coal-fired plants), and denial of nuclear power plant certifications by some States.

Table 1.--Uranium: U.S. commercial production, exports, imports and apparent consumption, 1979-83, (in terms of U_3O_8 content)

Year	Production	Exports 1/	Imports	Apparent consumption	Ratio of imports to apparent consumption
	Short tons				
1979	18,700	3,100	1,500	17,100	9
1980	21,850	2,900	1,800	20,750	9
1981	19,200	2,200	3,300	20,300	16
1982	13,400	3,100	8,550	18,850	45
1983	10,550	1,650	4,100	13,000	32
1984	2/ 7,500	2/ 1,000	2/ 4,700	2/ 11,200	2/ 42

1/ Exports for 1979-81 represent exports by U.S. uranium producers only; exports for 1982-83 also include exports by U.S. utilities.
2/ Estimated.

Source: Compiled from official statistics of the U.S. Department of Energy.

Table 2.--Countries of origin of foreign uranium delivered to DOE enrichment plants for domestic end use (thousand pounds U_3O_8)

Country of origin	1977	1978	1979	1980	1981	1982	1983
Canada	288	350	1,414	1,344	1,164	2,012	1,258
Australia	6	286	322	524	490	1,838	438
South Africa	312	212	604	78	444	1,784	2,038
France 1/	124	364	832	372	54	354	680
United Kingdom	348	0	0	0	0	0	0
Unknown 2/	328	244	0	164	112	0	0
Total foreign	1,406	1,456	3,182	2,482	2,264	5,988	4,414
Total for domestic end use	29,886	25,370	34,054	24,752	22,398	33,072	26,128
Percent foreign	4.7	5.7	9.3	10.0	10.1	18.1	16.9
Allowable percentage	10.0	15.0	20.0	30.0	40.0	60.0	80.0

1/ Include France's African suppliers, Niger and Gabon.
2/ The country of origin is "unknown" when a utility receives uranium from an intermediate supplier who does not identify the country of origin of the uranium.

Source: Office of the Assistant Secretary for Nuclear Energy, U.S. Department of Energy.

II. COAL

Description and uses

Coal was formed from decayed plant remains which were metamorphosed over vast spans of time, producing the following ranks of coal:

(1) Anthracite—a hard, jet-black coal with a high luster, used for generating electricity and space heating;

(2) Bituminous—the most common coal, also known as soft coal, dense and black, often with well-defined bands of bright and dull material visible, used for generating electricity, making coke, and for space heating;

(3) Sub-bituminous—a type of coal having a dull black color, used for generating electricity and space heating; and

(4) Lignite—a brownish black coal with a high moisture content, used for generating electricity.

The resulting coalbeds or seams are interlayered between beds of sandstone, shale, and limestone. These coal seams range in thickness from less than 1 inch to more than 100 feet.

The primary use of coal is as a fossil fuel, but another important use is in the production of coke and coal byproducts such as crude coal tar, coke oven gas, light oil, and ammonia. About 92 percent of the coke produced in the United States is used in blast furnaces in the production of steel. About 93 percent of the coal tar produced is further refined into tar acid oil, pitch, and other products with the remainder used as a fuel. Tar acid oil is distilled to produce various chemical derivatives; pitch is used for waterproofing, roofing, and paving.

Prior investigations

On October 17, 1979 the U.S. International Trade Commission received advice from the Department of the Treasury that, in accordance with section 201(c)(1) of the Antidumping Act of 1921, as amended, an antidumping investigation was being initiated with respect to coke from West Germany. Pursuant to section 201(c)(2) of the act, Treasury determined that there was substantial doubt that an industry in the United States was being or was likely to be injured by reason of the importation of coke from West Germany that may have been sold in the United States at less than fair value. Accordingly, on October 22, 1979, the Commission instituted inquiry No. AA1921-Inq.-29 under section 201(c) of the act to determine whether there was a reasonable indication that an industry in the United States was being or was likely to be injured, or prevented from being established, by reason of the importation of such merchandise into the United States. On the basis of the information developed during the inquiry, the Commission determined that there was no reasonable indication of injury.[15]

Comparison with present law

Tariff treatment under the TSUS.—Coal is classified in item 521.31 of the TSUS. The column 1 and column 2 rates of duty for all classifications of coal (including anthracite, bituminous, sub-bituminous, lignite, coke, and other compositions used for fuel) are both free. No rate is provided for LDDCs. This item is not eligible for the GSP, but articles from eligible Caribbean countries may qualify for the CBERA. No staged duty reductions were negotiated for item 521.31 during the Tokyo Round.

Tariff treatment under the proposed Harmonized System (HS).—The following tabulation shows the classifications for coal and the duty rates under the proposed HS:[16]

---

[15] U.S. International Trade Commission, *Coke from West Germany*, U.S.I.T.C. Publication No. 1015, November 1979.

[16] Source: Trade Policy Staff Committee, *Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System* (September 1984).

HS item No.	Description	Col. 1 general	Col. 2
2701	Coal; briquettes, ovoids, and similar solid fuels manufactured from coal:		
	Coal, whether or not pulverized, but not agglomerated:		
2701.11.00	Anthracite	Free	Free
2701.12.00	Bituminous coal	Free	Free
2701.19.00	Other coal	Free	Free
2701.20.00	Briquettes, ovoids, and similar solid fuels manufactured from coal	Free	Free
2702	Lignite, whether or not agglomerated, excluding jet:		
2702.10.00	Lignite, whether or not pulverized, but not agglomerated	Free	Free
2702.20.00	Agglomerated lignite	Free	Free
2703.00.00	Peat (including peat litter), whether or not agglomerated	Free	Free
2704.00.00	Coke and semi-coke of coal, of lignite, or of peat, whether or not agglomerated; retort carbon	Free	Free

Historic tariff treatment and trade agreement status

Imports of coal, coke commercially suitable for use as fuel, and compositions of coal, coke, or other carbonaceous material, used for fuel, were free of duty under provisions of the original Tariff Act of 1930 (paragraphs 1650 and 1719 (lignite)). However, paragraph 1650 contained a *proviso,* as follows:

"That if any country, dependency, province, or other subdivision of government imposes a duty on any article specified in this paragraph, when imported from the United States, an equal duty shall be imposed upon such article coming into the United States from such country, dependency, province, or other subdivision of government."

This *proviso,* often termed a "countervailing duty," was similar to several others in the 1930 Act (e.g., paragraphs 369, 401, and 1402), all with the intent to encourage (or mandate) a series of reciprocal (and "equal") tariff arrangements in specific product sectors.

Section 601(c)(5) of the Revenue Act of 1932 imposed an additional duty in the form of an "excise tax" of 10 cents per 100 pounds on certain imported articles including coal and coke. This tax was subsequently codified in two sections of the Internal Revenue Code (IRC), as follows:

IRC Section No.	Excerpts from code sections	Rate of Tax
4531	In addition to any other tax or duty imposed by law, there is hereby imposed a tax *** on coal of all sizes, grades, and classifications (except culm and duff), coke manufactured therefrom, and coal or coke briquettes, imported into the United States, unless treaty provisions of the United States otherwise provide.....	10¢ per 100 lbs.
4532	The tax on the articles described in section 4531 shall not be imposed upon any such article if during the preceding calendar year the exports of the articles described in section 4531 from the United States to the country from which such article is imported have been greater in quantity than the imports into the United States from such country of the articles described in such section.	

This excise tax was also conditioned on the existence of an unfavorable balance of trade, calculated on a bilateral basis, in coal and related products, and on the absence of "treaty provisions" covering trade in such products with the country having the unfavorable balance of trade. (See, e.g., *George E. Warren Corp. v. United States* 25 C.C.P.A. 450 (1938)).

The "countervailing duty" provisions in the Tariff Act of 1930 (including the *proviso* to paragraph 1650) were repealed by section 2(a) of the Reciprocal Trade Agreements Act of 1934 (Act of June 12, 1934, ch. 474; 48 Stat. 943 at 944). Since there had been no *taxable* imports subject to the excise tax imposed by the Revenue Act of 1932 for a number of years prior to 1963, this excise tax was repealed by section 302(d) of the Tariff Classification Act of 1962 (P.L. 87-456; 76 Stat. 72 at 77).

Structure of the domestic industry

The U.S coal industry is composed of land owners, mining companies, equipment suppliers, and transportation companies. The large integrated companies dominate the market. Large coal mines (those producing 500,000 short tons or more) account for a small share of the total operational mines. However, they account for a major share of total U.S. coal production. The tabulation on the following page shows the total number of mines, the number of large mines, and the percent of total coal production accounted for by large mines.[17]

Year	Total mines	Large mines	Large mines' share of total production
			---Percent---
1981	6,796	299	56.8
1982	5,552	322	61.0
1983	4,489	294	64.9

The method used to mine the coal depends on the terrain and depth of the coal. Underground mining is required when the coal lies deeper than 200 feet, and surface or strip mining is used when the coal is located at depths less than 200. Be-

[17] U.S. Department of Energy, *Quarterly Coal Report, July-September 1984* (January 1985).

cause surface mining is more easily mechanized, more coal has been obtained from surface mining than from underground mining in the United States since the 1970's. Of the 294 large coal mines, 154 were underground mines and 140 were surface mines.[18] Nearly 75 percent of the large underground coal mines in 1983 were located in four states: West Virginia (44 mines), Pennsylvania (27 mines), Kentucky (22 mines), and Illinois (21 mines). The large surface mines were located in Wyoming (22 mines), Kentucky (19 mines), and Indiana (14 mines).[19]

Although employment in the coal industry has declined since 1981, productivity has increased. The tabulation on the following page shows the average number of miners working daily and productivity (average tons per miner per day): [18]

Bituminous and lignite coals account for nearly 99 percent of total U.S. coal production.

Year	Bituminous and lignite coal		Anthracite coal	
	Miners	Productivity	Miners	Productivity
1979	224,203	15.33	3,094	8.21
1980	224,938	16.32	3,631	8.38
1981	226,250	18.08	3,052	6.94
1982	214,400	18.13	2,717	4.52
1983	173,543	21.19	2,099	7.55

Domestic production

U.S. coal production reached a record high of an estimated 890 million short tons in 1984 (table 3). Bituminous and lignite coals account for nearly 99 percent of total U.S. coal production.

U.S. production of coke decreased from 53 million short tons in 1979 to 25.8 million short tons in 1983. U.S. coke production during January to September 1984 was 23.4 million short tons. The following tabulation, derived from official statistics of the DOE, shows U.S. coke production (quantity in thousands of short tons; value in millions of dollars; unit value in dollars per short tons):

Year	Quantity	Value	Unit value
1979	52,943	5,645	106.63
1980	46,132	4,920	106.64
1981	42,786	4,841	113.14
1982	28,115	3,230	114.89
1983	25,808	2,946	114.15
Jan.-Sept.--			
1984	23,446	2,446	104.31

U.S. imports

U.S. imports of all categories of coal decreased from 1.9 million short tons, valued at $83 million in 1980, to 884,000 short tons, valued at $33 million, in 1982 and then increased to 1.9 million short tons, valued at $93 million, in 1984 (table 4). In 1983 U.S. imports of bituminous and lignite coal reached 1.2 million short tons, valued at $38 million, but decreased slightly to 1 million short tons, valued at $35 million, in 1984 (table 5). U.S. imports of anthracite coal remained relatively stable during 1980-84 and in 1984 amounted to 5,000 short tons, valued at $190,000 (table 6). U.S. coke imports declined from 659,000 short tons, valued at $51 million, in 1980 to 35,000 tons short tons, valued at $2 million, in 1983 but rose to 582,000 short tons, valued at $47 million, in 1984 (table 7). U.S. imports of other coal and carbonaceous material were 234,000 short tons, valued at $9.5 million, in 1984 (table 8).

[18] U.S. Department of Energy, *Quarterly Coal Report, July-September 1984* (January 1985).

[19] Includes bituminous, lignite, and anthracite coal, and other carbonaceous materials, except coke.

The major sources of U.S. coal imports during 1980–84 were Japan, the Republic of South Africa, Canada, and Columbia.

U.S. exports

U.S. exports of coal decreased from 101 million short tons, valued at $5 billion, in 1980 to 94 million short tons, valued at $4.7 billion, in 1984 (table 9). U.S. exports of bituminous and lignite coals decreased from 90 million short tons, valued at $4.5 billion, in 1980 to 81 million short tons, valued at $4.1 billion, in 1984 (table 10).

Anthracite coal exports also decreased during the period from 1.8 million short tons in 1980 to 680,000 short tons in 1984 (table 11). However, U.S. exports of coke increased from 9 million short tons in 1980 to 12.7 million short tons in 1984 (table 12). Other coal and carbonaceous materials exports also increased from 34,000 short tons in 1980 to 111,000 short tons in 1984 (table 13).

Canada, Japan, and Italy were the principal markets for U.S. coal exports in 1984.

Apparent U.S. consumption

U.S. apparent consumption of coal decreased from 731 million short tons in 1980 to 693 million short tons in 1983. Consumption increased to 798 million short tons in 1984 (table 14). Imports accounted for less than 1 percent of apparent U.S. consumption during 1980–84.

Table 3.--Coal: 1/ U.S. production, 1979-84

(Quantity in thousands of short tons; value in thousands of dollars; unit value in dollars per short ton)

Year	Quantity	Value	Unit value
1979	781,134	18,551,933	23.75
1980	829,700	20,452,105	24.65
1981	823,775	21,747,660	26.40
1982	838,112	22,838,552	27.25
1983	782,091	22,383,444	28.62
1984	2/ 890,100	3/	3/

1/ Includes bituminous, lignite, and anthracite coal, and other carbonaceous materials, except coke.

2/ Estimated.

3/ Not available.

Source: Compiled from official statistics of the U.S. Department of Energy.

Table 4.--Coal and other carbonaceous material: U.S. imports for consumption, by principal sources, 1980-84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 short tons)				
Japan	352	141	39	1/	354
Rep Saf	770	814	576	744	612
Canada	190	318	196	244	327
Colomb	0	0	0	241	269
France	0	1/	1/	1/	75
Italy	0	0	1/	0	54
Poland	316	31	0	0	109
Argent	146	210	49	12	37
All other	112	75	23	84	29
Total	1,885	1,589	884	1,325	1,868
	Value (1,000 dollars)				
Japan	31,647	13,047	3,362	1	29,690
Rep Saf	16,948	19,877	15,568	21,455	19,645
Canada	11,496	20,023	9,321	11,226	14,548
Colomb	-	-	-	9,131	10,472
France	-	3	1	10	6,637
Italy	-	-	1	-	5,351
Poland	9,542	1,439	-	-	3,732
Argent	6,826	13,870	3,226	323	1,510
All other	6,437	4,079	1,349	3,047	1,033
Total	82,896	72,337	32,829	45,194	92,617
	Unit value (per short ton)				
Japan	$89.86	$92.74	$86.19	$720.00	$83.79
Rep Saf	22.02	24.41	27.01	28.84	32.08
Canada	60.42	62.90	47.56	45.94	44.49
Colomb	-	-	-	37.96	38.91
France	-	322.25	42.32	26.02	87.95
Italy	-	-	29.17	-	98.28
Poland	30.20	46.30	-	-	34.14
Argent	46.88	66.14	65.60	26.99	40.82
All other	57.64	54.05	57.69	36.32	35.44
Average	43.97	45.51	37.13	34.10	49.57

1/ Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 5.--Bituminous and lignite coal: U.S. imports for consumption, by principal sources, 1980-84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 short tons)				
Rep Saf	770	814	565	744	559
Colomb	0	0	0	241	243
Canada	5	61	76	133	195
Austral	67	34	23	23	28
Poland	83	3	0	0	6
China M	0	0	0	1/	1/
Indnsia	0	0	0	0	1/
Japan	0	0	0	0	1/
All other	1/	1	1/	60	1/
Total	925	913	663	1,201	1,030
	Value (1,000 dollars)				
Rep Saf	16,946	19,877	14,899	21,455	17,859
Colomb	-	-	-	9,131	9,412
Canada	217	2,907	3,059	4,706	6,732
Austral	2,079	670	945	1,016	880
Poland	2,665	144	-	-	190
China M	-	-	-	1	1
Indnsia	-	-	-	-	1/
Japan	-	-	1/	1/	1/
All other	12	18	1	1,872	1/
Total	21,919	23,615	18,904	38,182	35,074
	Unit value (per short ton)				
Rep Saf	$22.02	$24.41	$26.38	$28.84	$31.97
Colomb	-	-	-	37.96	38.76
Canada	45.11	47.62	40.50	35.33	34.56
Austral	31.12	19.79	41.96	44.41	31.17
Poland	32.08	46.30	-	-	32.71
China M	-	-	-	400.00	500.00
Indnsia	-	-	-	-	376.00
Japan	-	-	-	-	342.00
All other	37.34	19.61	252.33	30.99	60.29
Average	23.70	25.86	28.52	31.79	34.05

1/ Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 6.--Anthracite coal: U.S. imports for consumption, by principal sources, 1980-84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 short tons)				
Canada	1	2	2	2	2
Rep Saf	1/	0	1/	0	1
Poland	5	1	0	0	1
Colomb	0	0	0	0	1
Indnsia	0	0	0	0	0
Japan	0	0	0	0	0
U King	0	0	0	0	1/
Italy	0	0	0	0	0
All other	1/	1/	0	1/	0
Total	6	5	2	2	5
	Value (1,000 dollars)				
Canada	31	97	81	97	89
Rep Saf	1/	-	1/	-	40
Poland	153	29	-	-	38
Colomb	-	-	-	-	24
Indnsia	-	-	-	-	1/
Japan	-	-	1/	1/	1/
U King	1/	-	1/	-	1/
Italy	-	-	1/	-	1/
All other	1/	2	1/	3	1/
Total	184	128	81	100	190
	Unit value (per short ton)				
Canada	$38.29	$45.58	$45.89	$62.88	$55.78
Rep Saf	13.00	-	65.33	-	33.14
Poland	29.53	46.27	-	-	32.72
Colomb	-	-	-	-	40.29
Indnsia	-	-	-	-	-
Japan	-	-	-	-	-
U King	-	-	-	-	35.00
Italy	-	-	-	-	-
All other	258.00	14.69	-	387.11	-
Average	30.73	44.21	46.06	64.78	41.93

1/ Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 7.--Coke: U.S. imports for consumption, by principal sources, 1980-84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 short tons)				
Japan	352	141	39	0	354
France	0	0	0	0	75
Italy	0	0	0	0	54
Canada	116	143	31	23	60
Argent	146	210	49	12	37
Nethlds	0	0	1	0	1
U King	0	9	0	0	1/
Fr Germ	44	0	0	0	1/
All other	1/	25	1/	1/	1/
Total	659	527	120	35	582
	Value (1,000 dollars)				
Japan	31,647	13,047	3,362	-	29,685
France	-	-	-	-	6,637
Italy	-	-	-	-	5,349
Canada	8,568	11,898	2,235	1,828	3,772
Argent	6,826	13,870	3,225	323	1,510
Nethlds	-	-	383	-	121
U King	-	882	-	-	13
Fr Germ	4,323	-	-	-	9
All other	3	2,413	7	1/	2
Total	51,368	42,109	9,212	1,951	47,098
	Unit value (per short ton)				
Japan	$89.86	$92.74	$86.18	-	$83.78
France	-	-	-	-	87.95
Italy	-	-	-	-	98.28
Canada	73.69	83.42	72.07	70.67	63.34
Argent	46.88	66.14	65.59	26.99	40.82
Nethlds	-	-	492.34	-	150.98
U King	-	95.78	-	-	716.17
Fr Germ	97.34	-	-	-	769.67
All other	59.30	97.11	153.68	175.00	144.87
Average	78.00	79.89	76.76	55.75	80.98

1/ Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 8.--Other coal and carbonaceous materials: U.S. imports for consumption, by principal sources, 1980-84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 short tons)				
Canada	65	104	81	80	65
Poland	207	25	0	0	98
Rep Saf	1/	0	12	0	48
Colomb	0	0	0	0	23
Japan	0	0	1/	1/	1/
Indnsia	0	0	0	0	1/
U King	1/	0	1/	0	1/
Italy	0	0	1/	0	1/
All other	1/	6	1/	1	1/
Total	272	135	92	81	234
	Value (1,000 dollars)				
Canada	2,558	4,733	3,622	4,410	3,601
Poland	6,113	1,151	-	-	3,351
Rep Saf	1	-	668	-	1,588
Colomb	-	-	-	-	943
Japan	-	-	1/	1	3
Indnsia	-	-	-	-	3
U King	3	-	4	-	1
Italy	-	-	1	-	1
All other	16	87	9	150	2
Total	8,690	5,972	4,305	4,561	9,494
	Unit value (per short ton)				
Canada	$39.24	$45.49	$44.92	$54.82	$55.64
Poland	29.53	46.30	-	-	34.31
Rep Saf	15.29	-	57.10	-	33.13
Colomb	-	-	-	-	40.27
Japan	-	-	240.00	576.00	478.71
Indnsia	-	-	-	-	501.67
U King	90.71	-	432.80	-	41.18
Italy	-	-	29.47	-	117.11
All other	278.03	14.42	212.77	159.95	16.38
Average	31.91	44.30	46.39	56.04	40.60

1/ Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 9.--Coal and other carbonaceous material: U.S. exports of domestic merchandise, by principal markets, 1980-84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 short tons)				
Canada	19,132	19,730	19,642	18,396	21,852
Japan	24,927	27,807	28,205	21,427	19,394
Italy	7,695	11,050	12,271	9,521	9,269
Nethlds	6,136	7,799	7,486	5,727	7,668
Belgium	6,028	5,086	6,047	3,994	5,451
Brazil	3,428	2,728	3,149	3,583	4,778
France	8,000	10,335	9,642	5,169	4,500
U King	4,178	2,459	2,112	1,254	2,853
All other	21,423	33,740	27,889	21,351	18,506
Total	100,947	120,733	116,443	90,421	94,272
	Value (1,000 dollars)				
Canada	905,351	1,017,849	1,074,300	972,364	1,139,338
Japan	1,396,935	1,569,613	1,635,447	1,132,895	986,084
Italy	384,740	582,339	678,961	439,843	421,808
Nethlds	278,417	399,550	406,423	281,324	374,028
Belgium	261,649	264,374	332,212	179,475	255,591
Brazil	194,057	165,004	206,446	201,653	250,178
France	368,584	510,783	502,703	233,190	202,196
U King	193,865	133,156	120,901	66,712	152,264
All other	1,053,780	1,700,136	1,583,144	996,278	870,653
Total	5,037,379	6,342,803	6,440,539	4,503,734	4,652,140
	Unit value (per short ton)				
Canada	$47.32	$51.59	$54.69	$52.86	$52.14
Japan	56.04	56.45	57.99	52.87	50.84
Italy	50.00	52.70	55.33	46.20	45.51
Nethlds	45.38	51.23	54.29	49.12	48.78
Belgium	43.41	51.98	54.94	44.94	46.89
Brazil	56.62	60.49	65.55	56.28	52.36
France	46.07	49.42	52.14	45.11	44.94
U King	46.40	54.15	57.23	53.22	53.36
All other	49.19	50.39	53.18	46.66	47.05
Average	49.90	52.54	55.31	49.81	49.35

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 10.--Bituminous and lignite coal: U.S. exports of domestic merchandise, by principal markets, 1980-84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 short tons)				
Canada	17,053	17,876	18,249	16,859	20,143
Japan	22,990	25,844	25,768	17,864	16,325
Italy	7,112	10,473	11,279	8,057	7,624
Nethlds	4,530	6,798	5,934	4,162	5,483
Brazil	3,240	2,712	3,110	3,547	4,692
Belgium	4,476	4,162	4,761	2,544	3,902
France	7,523	9,668	8,929	4,143	3,791
U King	4,119	2,341	2,017	1,236	2,853
All other	18,905	30,419	25,251	18,584	15,988
Total	89,947	110,292	105,297	76,996	80,802
	Value (1,000 dollars)				
Canada	807,113	906,553	989,098	888,838	1,037,742
Japan	1,310,776	1,472,562	1,525,615	1,002,073	865,524
Italy	359,638	551,462	636,979	391,622	365,643
Nethlds	208,415	348,586	331,996	226,605	283,690
Brazil	182,247	163,554	203,874	198,944	244,321
Belgium	203,835	220,913	281,045	135,573	201,580
France	341,499	474,704	475,097	204,321	178,763
U King	189,961	127,221	117,285	66,271	152,241
All other	925,347	1,547,831	1,377,195	899,345	761,353
Total	4,528,831	5,813,386	5,938,184	4,013,592	4,090,857
	Unit value (per short ton)				
Canada	$47.33	$50.71	$54.20	$52.72	$51.52
Japan	57.01	56.98	59.21	56.09	53.02
Italy	50.57	52.66	56.48	48.61	47.96
Nethlds	46.01	51.28	55.94	54.44	51.74
Brazil	56.25	60.31	65.55	56.09	52.07
Belgium	45.54	53.08	59.03	53.30	51.66
France	45.39	49.10	53.21	49.32	47.15
U King	46.12	54.35	58.15	53.60	53.36
All other	48.95	50.88	54.54	48.39	47.62
Average	50.35	52.71	56.39	52.13	50.63

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 11.--Anthracite coal: U.S. exports of domestic merchandise, by principal markets, 1980-84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 short tons)				
Canada	421	361	316	292	301
Kor Rep	541	1,500	550	357	292
Norway	12	6	6	12	38
Venez	10	8	5	6	11
Mexico	11	22	15	4	15
Brazil	26	15	20	25	14
Argent	1/	1	1	1/	2
Turkey	1/	1/	0	0	6
All other	774	335	68	80	2
Total	1,795	2,249	980	776	680
	Value (1,000 dollars)				
Canada	26,077	23,347	23,633	21,985	22,809
Kor Rep	17,517	56,466	19,866	11,578	9,684
Norway	874	565	615	913	2,957
Venez	1,500	1,146	793	1,074	1,853
Mexico	1,066	2,032	1,753	579	1,467
Brazil	1,951	1,394	1,823	2,033	1,137
Argent	4	390	235	95	711
Turkey	7	1	-	-	486
All other	49,292	17,641	4,426	4,906	506
Total	98,289	102,982	53,144	43,163	41,609
	Unit value (per short ton)				
Canada	$62.01	$64.66	$74.81	$75.35	$75.74
Kor Rep	32.40	37.64	36.13	32.41	33.20
Norway	73.79	92.20	102.99	78.66	78.26
Venez	143.36	135.12	152.14	181.04	170.31
Mexico	92.97	90.86	117.81	131.74	99.66
Brazil	75.81	94.04	92.64	80.74	80.73
Argent	272.14	457.52	299.02	325.09	334.92
Turkey	131.16	54.52	-	-	87.52
All other	63.67	52.67	65.42	61.53	206.81
Average	54.76	45.80	54.23	55.61	61.15

1/ Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 12--Coke: U.S. exports of domestic merchandise, by principal markets, 1980-84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 short tons)				
Japan	1,858	1,931	2,429	3,562	3,057
Nethlds	1,479	979	1,551	1,565	2,185
Canada	1,626	1,491	1,025	1,166	1,328
Italy	565	577	992	1,464	1,645
Belgium	1,395	833	1,286	1,450	1,549
SPAIN	0	0	0	0	1,024
France	211	589	657	968	709
Kor Rep	39	131	84	160	216
All other	1,998	1,591	2,023	2,206	966
Total	9,171	8,122	10,047	12,541	12,678
	Value (1,000 dollars)				
Japan	79,257	94,985	109,348	130,808	120,053
Nethlds	63,337	49,762	74,417	54,714	90,333
Canada	70,944	87,819	59,850	58,706	74,339
Italy	23,621	30,844	41,982	48,221	56,165
Belgium	49,703	38,688	51,162	43,902	54,011
SPAIN	-	-	-	-	35,906
France	10,320	31,924	24,499	25,612	23,433
Kor Rep	1,265	6,680	3,703	4,996	8,700
All other	110,397	81,529	78,871	75,342	50,269
Total	408,844	422,231	443,833	442,300	513,209
	Unit value (per short ton)				
Japan	$42.65	$49.18	$45.03	$36.72	$39.27
Nethlds	42.82	50.83	47.98	34.96	41.34
Canada	43.64	58.88	58.39	50.37	55.99
Italy	41.83	53.47	42.31	32.94	34.15
Belgium	35.62	46.47	39.77	30.27	34.88
SPAIN	-	-	-	-	35.06
France	48.96	54.18	37.30	26.46	33.07
Kor Rep	32.22	51.14	44.17	31.23	40.24
All other	55.26	51.24	38.99	34.15	52.04
Average	44.58	51.99	44.18	35.27	40.48

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 13.--Other coal and carbonaceous materials: U.S. exports of domestic merchandise, by principal markets, 1980-84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 short tons)				
Canada	33	1	52	80	80
Fr Germ	1/	0	0	26	14
Mexico	1	9	9	2	5
Japan	0	20	8	0	12
Venez	1/	1/	1/	0	1/
Egypt	1/	1/	0	0	1/
Oman	0	0	0	1/	1/
Kuwait	0	0	0	0	1/
All other	1/	40	49	1/	1/
Total	34	70	119	108	111
	Value (1,000 dollars)				
Canada	1,217	129	1,720	2,835	4,448
Fr Germ	14	-	-	1,349	783
Mexico	142	588	879	429	589
Japan	-	986	483	-	507
Venez	29	135	37	-	90
Egypt	2	2	-	-	16
Oman	-	-	-	24	9
Kuwait	-	-	-	-	8
All other	11	2,363	2,259	42	15
Total	1,414	4,204	5,378	4,679	6,464
	Unit value (per short ton)				
Canada	$36.80	$133.85	$32.85	$35.47	$55.44
Fr Germ	133.68	-	-	50.92	55.94
Mexico	137.97	63.62	94.54	283.74	126.87
Japan	-	50.27	57.85	-	41.96
Venez	149.62	428.45	185.35	-	562.50
Egypt	128.33	406.60	-	-	345.60
Oman	-	-	-	227.53	889.70
Kuwait	-	-	-	-	303.78
All other	164.25	58.82	45.98	203.35	95.02
Average	41.03	59.77	45.07	43.22	58.05

1/ Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 14.--Coal: U.S. apparent consumption, 1980-84

(Quantity in thousands of short tons; value in thousands of dollars; unit value in dollars per short ton)

Year	U.S. apparent consumption			Ratio (percent) of imports to consumption		
	Quantity	Value	Unit value	Quantity	Value	Unit value
1980	730,638	15,497,622	21.21	0.3	0.5	-
1981	704,631	15,477,194	21.96	.2	.5	-
1982	722,553	16,430,842	22.74	.1	.2	-
1983	692,995	17,924,904	25.87	.2	.3	-
1984	797,696	1/	1/	.2	1/	-

1/ Not available.

Source: Derived from official statistics of the U.S. Department of Energy and the U.S. Department of Commerce.

III. URANIUM ORE AND METAL

Description and uses

Uranium ore is found largely in the Earth's crust, where the average concentration is 4 parts per million. Uranium ore reserves have become important only with the discovery of nuclear fission and the potential of atomic power. Prior to this discovery uranium was obtained principally as a by-product of radium mining operations. Almost all uranium ore sold commercially is consumed by the nuclear power industry in civilian power reactors. Several hundred uranium-containing minerals have been identified, but only a few are commercially viable. Some of the largest occurrences of uranium ore are in the Colorado plateau deposits, the Blind River conglomerates in Ontario, and in South Africa, where it is mined as a by-product of gold mining operations.

The principal mining methods for uranium ore are open-pit and underground, with open-pit the dominant method. Open-pit mines are limited to a depth of 300 feet while underground mines may exceed depths of 5,000 feet. Solution mining, in the form of in-situ and heap leaching, is a third form of ore extraction but is applied generally only to low grade deposits that cannot be economically mined by conventional methods.

Uranium metal is a dense, silver gray metal, which, when exposed to air, tarnishes to form the metal oxide. Uranium metal is produced from uranium ore, which is processed into uranium tetrafluoride which is then reduced to uranium metal by reaction with calcium or magnesium. The uranium metal that results can be hot or cold worked by extrusion, rolling, or forging.

Because of uranium metal's high density, approximately 70 to 80 percent is used for ammunition to penetrate medium or heavy armor. The primary nonordnance applications for uranium metal are as ballasts and counter-weights. These two uses together constitute almost 50 percent of the nonordnance uses for uranium metal.

Comparison with present law

Tariff treatment under the TSUS.—Uranium ore is classifiable in TSUS item 601.57. The column 1 and column 2 rates of duty for this item are both free. No special rate is provided for LDDCs. This tariff item is not eligible for the GSP. Articles from eligible Caribbean countries may qualify under the CBERA. No staged rate reductions were negotiated for item 601.57 during the Tokyo Round.

Uranium metal is classifiable in item 629.50, TSUS. The column 1 rate of duty for this item is 6.9 percent ad valorem and the column 2 rate is 45 percent. The rate for LDDCs is 5 percent. This tariff item is eligible for both the GSP and the CBERA.

The following staged rate reductions were negotiated for item 629.50 in the Tokyo Round of Multilateral Trade Negotiations (MTN):

Year	Staged column 1 rates of duty effective with respect to articles entered on or after Jan. 1--
Pre-MTN 1/	12.5% ad val.
1980	11.6
1981	10.6
1982	9.7
1983	8.8
1984	7.8
1985	6.9
1986	5.9
1987	5

1/ Rate effective prior to January 1, 1980.

Tariff treatment under the Proposed Harmonized System (HS)--1/

Heading	Article description	Rates of duty column 1 General
2612.10.00	Uranium ores and concentrates	Free
2844.10.10	Uranium metal (natural uranium)	5%

1/ Source: Trade Policy Staff Committee, Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System (September 1984).

Structure of the domestic industry

In 1983, according to the Department of Energy (DOE), there were 135 U.S. mines producing uranium ore. Of this total, 110 mines produced ore through underground or open-pit methods, 10 mines produced ore using the solution mining method, and 15 produced ore as a by-product of phosphate and copper mining and from mine, water, and mill tailings. Most mines were concentrated in the Colorado plateau and in the Wyoming Basins region. The Department of Energy also reported that these mines were owned by 50–55 producing companies (both majors and independents) in 1983. Most of the major producers own their own uranium processing mills and these mills also purchase ore from independent ore producers. According to the DOE there were 23 conventional processing mills in the the United States in 1983.

U.S. employment in the uranium mining and exploration industry declined from a peak of approximately 19,000 employees in 1979 to approximately 5,000 employees in 1983. Employment in 1983 was concentrated in New Mexico and Wyoming.

In 1984 there were three principal firms producing uranium metal. Aerojet-General Inc. produced uranium metal in its plant in Jonesboro, TN, and shipped the material to its facility in Downey, CA, to be processed into military ordnance. Nuclear Metals Inc. produced uranium metal in its plant in Barnwell, SC, and shipped the material to its facility in Concord, MA, for processing into ordnance and other applications. In addition to these two private firms, there was a government-owned, contractor-operator facility located in Fernald, OH which processed uranium metal for the Department of Defense from DOE enriched uranium.

Domestic production

U.S. domestic production of uranium ore has declined steadily during 1980–83 from 16.7 million short tons in 1980 to 7.4 million short tons in 1983 (see table 15). Production is also estimated to have declined in 1984. Production declines have been largely attributed to declining demand for uranium ore by utilities, stringent environmental regulations imposed by State and Federal agencies, and increasingly lower grades of domestic uranium ore deposits being mined.

Following the increased demand for uranium metal, U.S. production increased annually from an estimated 5,000 short tons in 1980 to an estimated 6,000 short tons in 1983 (see table 16).

U.S. imports

There were virtually no imports of uranium ore during 1980–84 due to the high cost of transporting the heavy, low unit-value material over long distances (table 15). Uranium ore is typically processed into a concentrate form in order to ship the material more economically.

U.S. imports of uranium metal declined from 207 short tons ($1.1 million) in 1980 to 74 short tons ($627,000) in 1983 before rising to 678 short tons ($6.0 million) in 1984 (table 16). Canada accounted for almost all imports in 1984. There were no column 2 imports in 1984. Industry sources indicate that imports of uranium metal have been limited due to the inability of foreign producers to match the efficiency of the fuel-enrichment processes used by U.S. producers.

U.S. exports

There were virtually no exports of uranium ore during 1980–84 due to the diseconomies associated with transportating uranium ore over large distances (table 15). U.S. exports of uranium metal fluctuated during 1980–84, reaching a high of 80 short tons ($1.3 million) in 1981 and a low of 7 short tons ($505,000) in 1982 (table 16). Exports in 1984 equaled 10 short tons ($706,000). Almost 75 percent of uranium metal exports were destined for the United Kingdom in 1984.

Apparent U.S. consumption

U.S. consumption of uranium ore declined in each year between 1980 and 1983, from 16.7 million short tons in 1980 to 7.4 million short tons in 1983 (table 15), and is also estimated to have declined in 1984. This trend is largely due to present high levels of utility inventories, representing a major source of supply, caused by delays in nuclear reactor construction. In recent years direct interutility sales and loans have grown as a source of uranium ore supply.

Apparent U.S. consumption of uranium metal increased annually from 5,148 short tons in 1980 to 6,054 short tons in 1983 as demand for uranium metal for military uses continued to grow (tabie 16).

Table 15.--Uranium ore: U.S. production, exports of domestic merchandise, imports for consumption, and apparent consumption, 1980-84

(Quantity in millions of short tons)

Year	U.S. production	Exports	Imports	Apparent consumption	Ratio (percent) of imports to consumption
1980	16.7	1/	1/	16.7	2/
1981	13.7	1/	1/	13.7	2/
1982	8.3	1/	1/	8.3	2/
1983	7.4	1/	1/	7.4	2/
1984	3/	1/	1/	3/	2/

1/ Less than 50,000 short tons.
2/ Less than 0.05 percent.
3/ Not available, but estimated by officials of the Department of Energy to have declined from 1983 levels.

Source: Data on U.S. production is from official statistics of the U.S. Department of Energy; data on imports and exports are from official statistics of the Bureau of the Census.

Table 16.--Uranium metal: U.S. production, exports of domestic merchandise imports for consumption, and apparent consumption, 1980-84

(Quantity in short tons; value in thousands of dollars)

Year	U.S. production	Exports	Imports	Apparent consumption	Ratio (percent) of imports to consumption
	Quantity				
1980	5,000	59	207	5,148	4.0
1981	5,500	80	109	5,529	2.0
1982	5,700	7	115	5,808	2.0
1983	6,000	20	74	6,054	1.2
1984	1/	10	678	1/	1/
	Value				
1980	1/	3,220	1,081	1/	1/
1981	1/	1,349	775	1/	1/
1982	1/	505	892	1/	1/
1983	1/	878	629	1/	1/
1984	1/	706	5,968	1/	1/

1/ Not available.

Source: Production data are estimated by USITC staff from information provided by producing companies; data on imports and exports are from official statistics of the Bureau of the Census.

U.S. DEPARTMENT OF STATE,
Washington, DC, June 10, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives.

DEAR MR. CHAIRMAN: We are responding to your request for the view of the Department of State on H.R. 1135, a bill which would prohibit the importation from the Republic of South Africa of uranium compounds, uranium ore and coal.

The Department of State recommends against enactment of the proposed legislation. The unilaterial ban on these imports from South Africa would be inconsistent with this Administration's efforts to reduce worldwide trade barriers and to resist protectionism. It would also undermine the Administration's efforts to bring about peaceful change in South Africa, away from apartheid and toward government based on the consent of all South Africans.

Measures such as those proposed would leave the United States open to challenge as being in violation of the rules of the General Agreement on Tariffs and Trade (GATT), specifically with respect to the GATT articles dealing with most-favored-nation treatment and quantitative restrictions. A successful challenge would require us to compensate South Africa or suffer retaliation against U.S. exports.

The most likely economic impact of restrictions on South African coal and uranium products would be higher costs to American consumers of energy. Since more expensive energy costs eventually translate into costlier and less competitive American manufactured exports, our efforts to reduce the U.S. trade deficit would face an additional obstacle. For similar reasons, the Executive Branch has in the recent past strongly opposed other legislative initiatives calling for quotas on uranium imports in general.

Our experience with the 1979/80 grain embargo directed at the Soviet Union demonstrated the ineffectiveness of such economic sanctions when applied to a relatively uniform commodity with several sources of supply and/or alternative markets. As both coal and uranium are considerably fungible, "swapping" of markets among established suppliers would similarly negate H.R. 1135's effectiveness.

Even as a gesture to demonstrate official U.S. abhorrence of South Africa's racial policies, H.R. 1135 in our view would be counter-productive. Whatever the economic impact of H.R. 1135 on South Africa, it would likely fall hardest on black miners who can least afford the burden. It would furthermore diminish the limited influence the United States has with the South African authorities, influence which has catalyzed improvements in labor standards and elimination of at least some of the more blatant apartheid practices.

Given these factors and the absence of any clear consensus among South African opponents of apartheid as to the desirability of economic sanctions, the Department of State cannot support the enactment of H.R. 1135.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

With best wishes,

Sincerely,

WILLIAM L. BALL III,
Assistant Secretary,
Legislative and Intergovernmental Affairs.

DEPARTMENT OF THE TREASURY,
Washington, DC, May 31, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for the views of the Department of the Treasury on H.R. 1135, "To amend the Tariff Schedules of the United States to prohibit the importation of coal and of certain articles of uranium, if the product of the Republic of South Africa or Namibia."

For the reasons stated below, the Department of the Treasury is opposed to the enactment of H.R. 1135.

A prohibition of imports from an individual country may be a violation of GATT Article I (General Most Favored Nation Treatment) and Article XI (Removal of Quantitative Restrictions). The result could leave the U.S. open to a complaint in the GATT from South Africa, and/or Namibia, and possibly GATT-sanctioned counter-measures. In addition, the United States may have difficulty defending a

coal and uranium import prohibition under GATT Article XX as they are not specified as general exceptions.

Also, the Department of the Treasury opposes the enactment of H.R. 1135 as contrary to the Administration's policies of bringing about changes in South Africa without disrupting trade and diplomatic relations. Finally, the Department opposes the politicization of trade flows which are more appropriately determined by market forces.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

MARGERY WAXMAN,
Deputy General Counsel.

H.R. 1137

To impose restrictions on the quantity of foreign unmanufactured tobacco that may be imported into the United States

See statement of American Farm Bureau Federation, Paul A. Drazek, under H.R. 110.

U.S. DEPARTMENT OF STATE,
Washington, DC, July 22, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives.

DEAR MR. CHAIRMAN: I am writing in response to your letter of March 13, 1985, requesting the views of the Department of State on H.R. 1137, a bill "to impose restrictions on the quantity of foreign unmanufactured tobacco that may be imported into the United States".

The Department of State opposes enactment of this bill. This legislation would impose quantitative restrictions on certain grades of tobacco imported into the United States without regard to the terms of existing waivers of obligations the United States benefits from in the General Agreement on Tariffs and Trade (GATT).

Under our waiver in the GATT, the U.S. may impose quantitative restrictions when the International Trade Commission (ITC) determines, in accordance with the procedures of Section 22 of the Agricultural Adjustment Act of 1933, as amended, that imports of a product interfere materially, or threaten to interfere materially with the farm program for that product. The problems that exist can and have been addressed by the Section 22 procedure, and the ITC feels that import restrictions are not necessary. Quotas imposed now would be seen by other countries as inconsistent with our GATT obligations.

The U.S. enjoys a trade surplus in agricultural trade. Adoption of this legislation could encourage other countries to adopt new restrictions on imports, or to retaliate against us for our action. Since our agricultural exports would be the most likely target for such actions by others, our agricultural export sector could be most damaged by adopting this legislation, affecting negatively our entire trade balance.

New import restrictions by developed countries could reduce the export potential of developing countries and damage their capacity for earning increased foreign exchange. By opening U.S. markets, or at least avoiding the imposition of further protection, we will provide developing countries with a better chance of achieving their economic potential; this, in turn, will mean increased opportunities for U.S. exports.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

With best wishes,

Sincerely,

WILLIAM L. BALL III,
Assistant Secretary,
Legislative and Intergovernmental Affairs.

STATEMENT OF NORMAN F. SHARP, PRESIDENT, CIGAR ASSOCIATION OF AMERICA

SUMMARY

The Cigar Association of America opposes H.R. 1137 because:

I. Tobacco quotas will harm the U.S. cigar industry.

U.S. cigar manufacturers use imported cigar tobacco because of unique characteristics which cannot be duplicated in tobacco grown in the United States.

A quota on cigar tobacco will force U.S. manufacturers offshore and promote imports of cigars.

II. If tobacco growers have a real need for relief from import competition, there are remedies available under existing law. A section 22 investigation by the International Trade Commission concluded 5–0 that cigar tobacco imports do not materially interfere with price support programs.

III. The quota categories do not distinguish between cigar and cigarette filler tobacco and should be recast to correspond with the Tariff Schedules of the United States.

IV. H.R. 1137 is protectionist legislation which risks harming U.S. trade surpluses in tobacco and agricultural products generally by subjecting U.S. exports to retaliatory action by U.S. trade partners.

STATEMENT

The Cigar Association of America* opposes passage of H.R. 1137, the "Tobacco Import Relief Act of 1985." The bill would impose import quotas on flue cured tobacco (31,000,000 pounds), on burley tobacco (45,000,000 pounds), and on "filler" tobacco (25,000,000 pounds). The bill does not distinguish between cigar filler tobacco and the filler tobacco used in cigarettes despite clear differences between the two types of tobacco.

I. Quotas would harm the U.S. cigar industry

Passage of H.R. 1137 will not increase U.S. production of cigar tobacco or enhance the walfare of U.S. tobacco farmers. Cigar tobacco quotas will merely cause domestic cigar production facilities to be closed or to be relocated in other countries because domestic cigar tobaccos cannot be substituted for foreign cigar tobaccos used in the production of cigars. There would, accordingly, be a substantial adverse impact on the economic welfare of cigar producing areas in the United States, including a considerable loss of jobs. This would occur without any commensurate benefit to U.S. tobacco growers.

Cigar manufacturers develop their products to appeal to the particular taste preferences of existing or potential cigar smokers. This requires that tobaccos be selected for a variety of qualities, such as favor, aroma, burn, and appearance. Therefore, virtually all cigars incorporate blends of different tobacco grown in a variety of the soils and climates which determine their different characteristics. This was described in the International Trade Commission's *Summary of Tariff and Trade for Tobacco and Tobacco Products*, (August 1984), as follows;

"The most important differences between continental domestic filler and imported filler are the result of differences in plant strains, soil, climate, and method of curing. Most imported cigar filler is added to the relatively mild continental filler to provide flavor and bouquet in a cigar." (p. 17).

In order to meet customer expectations, the cigar industry cannot substitute domestic cigar tobaccos for the various imported cigar tobaccos currently used. This problem does not result from the cost or the quality of U.S.-grown cigar tobacco. Rather, it is a result of the fact characteristics unique to tobacco grown in one part of the world cannot be duplicated when the same species of plant is grown in another part of the world. In short, cigar tobacco is not a fungible commodity. For this reason, the overwhelming bulk of U.S. grown cigar tobacco is used for chewing tobacco rather than cigars.

In addition, experience has shown a distinct resistance by cigar consumers to price increases, a resistance not found in some other tobacco products. This resistance limits the ability of domestic industry to pass on cost increases in the form of higher prices. A quota on imported cigar tobacco would raise U.S. cigar manufacturers' costs of materials and contribute substantially to the financial problems of an already hard-pressed industry because such increases likely could not be passed on to consumers.

Because of the different essential characteristics found in imported tobacco and because of the price sensitivity of cigars in the U.S. market, the domestic cigar industry is vitally dependent on access to imported cigar tobacco unencumbered by artificial restrictions that reduce supply and increase cost. The continued viability of the U.S. cigar industry would be in jeopardy if import quotas were imposed. Quotas would drive U.S. manufacturers offshore and stimulate foreign production of popular-priced cigars for the U.S. market to the detriment of the U.S. industry. Obviously, no new demand for U.S. grown cigar tobacco would be created by import quotas (to the extent U.S. cigar tobacco is currently used in cigar production,

* The Cigar Association of America is a non-profit organization representing manufacturers of 95% of domestically-produced cigars, as well as suppliers, importers and distributors of cigars.

demand would decline as producers are driven offshore). Thus, no commensurate benefit will be felt by U.S. tobacco growers.

II. If tobacco growers have a real need for relief from import competition, remedies are available under existing law

U.S. trade laws provide a comprehensive scheme for relief from import competition when circumstances warrant. In the event of competition from unfairly traded imports, the antidumping and countervailing duty laws provide for the imposition of additional import duties when merchandise is found by the Commerce Department to be in fact unfairly traded and the International Trade Commission finds a U.S. industry to be injured by reason of such imports. In the event of excessive competition from fairly traded imports, U.S. industries can get relief—including quotas—under the "escape clause" (section 201 of the Trade Act of 1974). The "escape clause" requires a finding by the ITC that increased imports are a substantial cause of serious injury to the domestic industry. If those situations do not exist, then tobacco growers have no greater claim to insulation from import competition than does any other industry.

None of these avenues of import relief have been pursued by domestic tobacco growers. The only attempt made to obtain tobacco import restrictions under existing statutes was an effort to impose quotas pursuant to section 22 of the Agricultural Adjustment Act on the grounds that tobacco imports materially interfered with U.S. Department of Agriculture price support programs. This effort failed earlier this year when the ITC determined by votes of 4–1 for flue cured and burley tobacco and 5–0 for cigar tobacco that imports did not materially interfere with USDA programs.

Thus, the single effort to obtain tobacco import quotas pursuant to existing statutory remedies resulted in a finding that they are not necessary. Other provisions for obtaining trade restraints have not been pursued. Rather, special privileges are being sought for tobacco growers.

III. The quota categories in the bill as drafted are too broad

H.R. 1137 imposes quotas on three broad categories of tobacco: flue cured, burley, and filler tobacco, "however provided for in part 13 of Schedule 1 of the Tariff Schedules of the United States." These categories fail to distinguish between cigar filler and cigarette filler tobacco—a distinction clearly recognized in the Tariff Schedules of the United States. As reference to the attached page from the Tariff Schedules of the United States (TSUS) illustrates, the superior heading for "Filler tobacco" includes separate TSUS items for cigarette leaf tobacco (170.28, 170.32, 170.35) and cigar leaf tobacco (170.20, 170.25, 170.40, 170.45). The separate TSUS items reflect the fact that cigarette and cigar filler tobacco are distrinct types of tobacco with different characteristics and uses. H.R. 1137, which seems to be directed at cigarette tobacco (for example, cigar wrapper tobacco is not included in quotas) fails to recognize this distinction.

If a tobacco quota is to be imposed, it should be cast in terms of TSUS items to avoid including cigar tobacco in the same category with cigarette tobacco. Casting a quota in terms of TSUS items also permits coverage of all cigarette tobaccos while exempting cigar tobaccos. As discussed in part I above, such an exemption is critical to the health of the U.S. cigar industry.

IV. A tobacco quota would endanger U.S. exports

H.R. 1137 is a quota bill—protectionism in its simplest form. It would expose U.S. exports of tobacco and, likely, other agricultural commodities to retaliatory trade restraints by U.S. trading partners. Risking such harm to U.S. exports is unwise at a time when the nation suffers a severe balance of trade deficit but enjoys a trade surplus in tobacco and tobacco products of $2 billion and in agricultural commodities of $18.5 billion.

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	LDDC	2
			PART 13. - TOBACCO AND TOBACCO PRODUCTS				
			Part 13 headnotes:				
			1. The term "wrapper tobacco", as used in this part, means that quality of leaf tobacco which has the requisite color, texture, and burn, and is of sufficient size for cigar wrappers, and the term "filler tobacco" means all other leaf tobacco.				
			2. The percentage of wrapper tobacco in a bale, box, package, or other shipping unit is the ratio of the number of leaves of wrapper tobacco in such unit to the total number of leaves therein. In determining such percentage for classification purposes, the appraiser shall examine at least ten hands, and shall count the leaves in at least two hands, from each shipping unit designated for examination.				
			3. The dutiable weight of cigars and cigarettes includes the weight of all materials which are integral parts thereof.				
			4. Provisions for the free entry of certain samples of tobacco products are covered by part 5 of schedule 8.				
			Leaf tobacco, the product of two or more countries or dependencies, when mixed or packed together:				
	170.01	00	Not stemmed	Lb.	$2.275 per lb.		$2.275 per lb.
	170.05	00	Stemmed	Lb.	$2.925 per lb.		$2.925 per lb.
			Wrapper tobacco (whether or not mixed or packed with filler tobacco):				
A	170.10	00	Not stemmed	Lb.	36c per lb.		$2.275 per lb.
A	170.15	00	Stemmed	Lb.	62c per lb.		$2.925 per lb.
			Filler tobacco (whether or not mixed or packed with wrapper tobacco):				
			When mixed or packed with over 35% of wrapper tobacco:				
	170.20	00	Not stemmed	Lb.	36c per lb.		$2.275 per lb.
	170.25	00	Stemmed	Lb.	$1.548 per lb.		$2.925 per lb.
			When not mixed and not packed with wrapper tobacco, or when mixed or packed with 35% or less of wrapper tobacco:				
			Cigarette leaf:				
			Not stemmed:				
	170.28	00	Leaf, oriental or Turkish type, not over 8.5 inches in length	Lb.	11.5c per lb.		35c per lb.
	170.32		Other		12.75c per lb.		35c per lb.
		10	Flue-cured	Lb.			
		30	Burley	Lb.			
		60	Other	Lb.			
	170.35	00	Stemmed	Lb.	24c per lb.	20c per lb.	50c per lb.
			Other, including cigar leaf:				
	170.40	00	Not stemmed	Lb.	16.1c per lb.		35c per lb.
	170.41		If product of Cuba		12.6c per lb. (a)		
	170.45	00	Stemmed	Lb.	20c per lb.		50c per lb.
	170.46		If product of Cuba		18c per lb. (a)		

(a) = Suspended. See general headnote 3(b).

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

LEAF TOBACCO EXPORTERS ASSOCIATION, INC.,
Raleigh, NC, June 11, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In your Subcommittee release of May 16, 1985, you requested written testimony for the record from interested parties relative to a number of miscellaneous tariff and trade bills which were listed in your release.

We would like to present our views to you relative to H.R. 1137 (Mr. Rogers): To impose restrictions on the quantity of foreign unmanufactured tobacco that may be imported into the United States.

The members of the trade associations which I represent, Leaf Tobacco Exporters Association and Tobacco Association of United States, purchase about 70 percent of U.S. tobacco crops and export most all U.S. tobacco shipped overseas.

A list of the members of LTEA and members and associate members of TAUS is attached (Attachment A [omitted]).

Our associations are opposed to H.R. 1137 for the following reasons:

1. This proposed bill represents trade protectionism in its worst form and is contrary to U.S. trade policy. We are attaching (Attachment B) a copy of a recent speech which I presented at the 31st Tobacco Workers Conference, entitled *A Trade Policy for U.S. Tobacco.* This paper represents our views on this subject.

2. As the world's largest exporter of tobacco, it is in the best interest of the U.S. to encourage freer and fair trade. We should seek aggressively to dismantle barriers to trade rather than erect barriers as proposed in this bill.

3. This proposed bill is contrary to U.S. obligations under the GATT where our tobacco duties are bound.

4. The U.S. has a net favorable balance of trade in tobacco of about $2 billion annually. The proposed bill could be expected to result in retaliation from our trading partners and large losses in our tobacco trade.

5. The problems now facing U.S. tobacco cannot be resolved by setting import quotas; we need a market-oriented tobacco program which will set support prices at market clearing levels. Legislation providing for this is now being worked on in the U.S. Senate.

6. The ITC recently investigated as to whether imports of foreign tobacco are meterially interfering or rendering ineffective the domestic price support program for tobacco. The ITC Commission ruled 4-1 against restricting imported tobacco.

7. Protectionism as outlined in H.R. 1137 is not the answer to the economic problems facing our domestic tobacco economy. On the other hand, it would likely contribute to these problems—and would delay even further any improvement in the U.S. tobacco situation.

A summary of our comments is indicated in Attachment C.

We urge that this bill not be approved by your Subcommittee or the House of Representatives.

Sincerely yours,

HUGH C. KIGER,
Executive Vice President.

Enclosures.

[Attachment B]

A TRADE POLICY FOR U.S. TOBACCO [1]

Thank you, Mr. Chairman. Before discussing a trade policy for tobacco, I think it would be appropriate to look at our overall national trade policy.

The U.S. is the world's largest trading nation. Because of our comparative advantage on many products, excellent technology and industrial capability, we have expanded exports to every corner of the globe. We have been able to accomplish this because of the progressively more open world trading system. This freer trade policy has enabled us to develop new markets, generate new jobs, and make available new choices for U.S. consumers.

For the past fifty years, U.S. trade policy has been designed to achieve freer trade. While completely free trade is not attainable, it has been the purpose of U.S. policies to move us in this direction.

---

[1] Remarks by Dr. Hugh C. Kiger, Executive Vice President, Leaf Tobacco Exporters Association and Tobacco Association of United States, at the 31st Tobacco Workers Conference, Pinehurst, North Carolina, Jan. 9, 1985.

Since World War II, the U.S. has generally enjoyed a mounting level of prosperity. Our nation has been able to do this because of the progressively more open world trading system which this country has advocated and fostered.

The importance of U.S. agricultural trade to our national economy cannot be over-emphasized. Total U.S. agricultural trade is estimated at about $38 billion during the past year. Agricultural imports were one-half of the export level, consequently, the U.S. agricultural trade surplus was in excess of $19 billion.

U.S. agriculture benefits enormously from international trade. Even with the decline in U.S. exports of agricultural products over the past two years, our exports still exceed imports by about $19 billion. The potential for increased agricultural income clearly lies in the direction of freer trade and more open markets.

Agricultural exports are the brightest spot in our national economy. These exports are by far the leading positive factor in the U.S. balance of trade, and are our Number One hope for ending the nation's balance of payments deficit during the eighties.

U.S. tobacco trade is a key part of U.S. farm trade and is the key to any expansion in the U.S. tobacco economy.

The United States is the world's leading tobacco trader. The United States ranks first as an exporter of tobacco and among the top three as an importer. Our net balance in tobacco trade is now a favorable $1.9 billion.

During the past 37 years, key leaders in all segments of our tobacco economy have strongly supported two-way trade and trade legislation to provide authority for negotiating lower tariff levels with our trading partners. They supported the Trade Act of 1974, which provided authority for the recently completed Tokyo Round. During these negotiations, the U.S. gained concessions which provide better access for our tobacco to a number of key markets.

The export market provides an outlet, in the form of leaf or products, for about 60 percent of the U.S. flue-cured crop, and about one-third of the Burley crop. In the period ahead, the export market provides the United States the best potential for increasing the market for U.S. tobacco.

As the world's largest exporter of tobacco, it is in the best interest of the U.S. to encourage freer and fair trade. We should seek aggressively to dismantle barriers to trade. In this manner, we help expand total world tobacco trade. Once this is done, we should take the necessary steps to gain a larger share of the world market.

Under an open international trading system, the U.S. has achieved a dominant role as the major exporter of tobacco. Rather than abandon this system, all segments of our tobacco economy should work aggressively within this trade policy framework to expand exports of U.S. tobacco.

An outward-looking trade policy is not a luxury for the United States. It is pure economic necessity. Even more than our trade is at stake. For if we slide into the unpredictable business of protectionism (trade restrictions), international affairs, monetary affairs, and international development will also suffer.

Foreign trade is based largely on the principle of specialization and exchange. Each country produces the goods and services for which they have a comparative advantage.

Trade is a two-way street. To export, a country must be willing to import. A country may export agricultural products and import industrial products or vice versa, or make other commitments abroad; however, over a period of time, the total exchange between nations must nearly balance.

The purchase of Japanese autos, TV and radio sets, cameras, etc., by the United States enables Japan to be the Number One purchaser of U.S. tobacco (over $300 million worth in 1983).

The purchase of Italian wines, footwear, low quality tobacco, etc., by the United States enables Italy to purchase about $90 million worth of good quality U.S. tobacco.

A freer and fair trade policy for tobacco needs to be accompanied by a market oriented tobacco farm program.

U.S. tobacco is at bay in an increasingly competitive and increasingly difficult world. Our traditional leadership in the world tobacco market is in jeopardy.

U.S. tobacco is faced with a critical problem. The U.S. is not price competitive in the world market and we are losing our markets.

If we continue with the current tobacco program with above-market clearing levels of price support, we will ultimately reduce our tobacco economy to producing only for the domestic market.

Legislation is sorely needed which will result in a market-oriented program, a program which establishes the price supports at market clearing levels. It will enable the U.S. to compete internationally by producing higher volumes at market

prices. Such a program can be expected to increase exports of U.S. tobacco, increase domestic use, lower the quantity going under loan, and increase tobacco quotas.

In a speech at the annual meeting of the Flue-Cured Tobacco Cooperative Stabilization Corporation in Raleigh, North Carolina, in May of 1984, Mr. Richard Smith, Administrator of FAS, USDA, made the following statements:

"There is no substitute for being price competitive in today's market. And if we have learned one thing it is that we have to remain flexible if we hope to compete."

"Higher U.S. support levels also provide an incentive for competing countries to produce more. This is so because world price floors are heavily influenced by the support level in the United States."

"When U.S. supports are above market level, competitors can establish a price below the U.S. rate and enjoy a price bonus in the prevailing market—at the expense of our farmers."

Some tobacco officials and politicians suggest that the best way to confront the growing competition from foreign suppliers is to eliminate it. They would have us build a high wall around the United States in the form of new tariffs and non-tariff barriers to trade. They would have us insulate ourselves from the threat of competition from abroad and from the uncomfortable fact of our own lack of commercial competitiveness.

The present administration states that it does favor, in principle, freer trade, as has every previous administration for the past fifty years. However, during the recent period, the present administration has been calling for freer trade while at the same time restricting imports when politics demanded it. Such divergent actions seem, at the least, dichotomous—perhaps even hypocritical.

Recent trade restriction proposals include (1) a change in tariff classification of machine-threshed cigarette leaf, which almost doubled the duty on this tobacco, (2) legislation which requires most imported leaf to be graded at the expense of the importer (no other country in the world has such a requirement), and (3) a current proposal that import quotas be established under provisions of Section 22.

The European Community (EC) has already taken the U.S. to the GATT twice on the tariff reclassification issue. We can expect the EC and other trading partners to retaliate as a consequence of protectionist measures by the United States.

Such protectionist measures would represent a giant step backward in U.S. efforts to expand foreign trade in tobacco. Sharp unilateral increases in duties and/or adoption of restrictive trade practices would result in retaliation by our trading partners and thus denial of access for U.S. tobacco to world markets.

In an address at the recent annual meeting of the Leaf Tobacco Exporters Association, Ambassador Michael Smith, Deputy U.S. Trade Representative, made the following comments:

"Sharp unilateral increases in duties and/or adoption of restrictive trade practices such as the *imposition of emergency Section 22 quotas on tobacco imports would result in requests for compensation or in retaliation by our trading partners and thus denial of access for U.S. tobacco in world markets.* Protectionism is not the answer to the economic problems facing U.S. tobacco producers or the agricultural economy as a whole, any more than it is for the industrial sector."

Protectionism is not the answer to the economic problems facing our domestic tobacco economy. On the other hand, it would likely contribute to these problems—and would delay even further any improvement in the U.S. tobacco situation.

Protectionist measures as suggested by some would be seen as a return to the economic nationalism of the thirties. Such retrogression and trade protectionism would take us back to the self-defeating economic policies which characterized the thirties and contributed to the economic and political disasters of that unhappy period.

If all of us want to expand markets for U.S. tobacco, we must move in the direction of a freer and fair trade policy and at the same time adopt a market-oriented tobacco program.

[Attachment C]

SUMMARY OF COMMENTS RELATING TO H.R. 1137

1. Our associations are strongly opposed to H.R. 1137.
2. This bill represents trade protectionism in its worst form and is contrary to U.S. trade policy.
3. As the world's largest tobacco trader, the U.S. should seek to dismantle rather than erect barriers to trade.
4. This proposed bill is contrary to U.S. obligations under GATT.
5. This bill would result in retaliation by our trading partners.

6. Import quotas will not resolve our problem; we need a market-oriented tobacco program.

7. The International Trade Commission recently ruled 4-1 against restricting tobacco imports.

H.R. 1218

Regarding the admission of certain fish into foreign trade zones in Hawaii

U.S. International Trade Commission

Section-by-section analysis

The proposed legislation would amend section 5 of the Act of June 18, 1935, known as the Foreign-Trade Zones Act (19 U.S.C. sec. 81e). Under section 1(2), the amendment would permit fish, which had been harvested by U.S.-flag vessels and transferred at sea to foreign-flag vessels, to be brought into a Hawaiian foreign-trade zone (FTZ) by the foreign-flag vessels under the authority of the Magnuson Fishery Conservation and Management Act (MFCMA) (16 U.S.C. 1801 *et seq.*). The MFCMA, the so-called 200-mile-limit bill, established the 200 nautical mile limit on U.S. maritime jurisdiction in U.S. coastal waters, effective March 1977. The purpose of the proposed legislation is to allow the manipulation or manufacture within the FTZ of fish landed by foreign-flag vessels; foreign vessels are currently prohibited from doing so, as discussed below, except as provided under treaties or conventions.

Background and sponsor's justification

Description and uses.—The proposed legislation involves the delivery of fish of any species which were harvested by U.S.-flag vessels and delivered over-the-side to foreign-flag freezer/processors or cargo vessels, for shipment to a FTZ in Hawaii. These arrangements between U.S. and foreign vessels in U.S. waters, known as joint ventures, occur only under the authority of the MFCMA. Under the provisions of the MFCMA, the Secretary of Commerce determines the maximum sustainable yield (MSY), the total quantity of any species of fish (except tuna) available for harvest in a year. The Secretary must allocate to foreign fleets any portion of the MSY that cannot be harvested by U.S. fishermen due to insufficient industry capacity. Frequently, these allocations are awarded on the condition that the recipient nation also purchase some amount of fish either from shoreside processors or directly over the side from U.S. harvesting vessels, in joint ventures. Joint ventures are common in the North Pacific, particularly off Alaska and the Pacific coast States, but are virtually unknown in Hawaiian waters. There is, however, a substantial though declining harvest of fish (allocated by the Secretary of Commerce) by foreign vessels in U.S. waters near Hawaii. Such harvests in 1984 totalled 73 metric tons of fish (all alfonsin or armorheads harvested by Japanese vessels for the Japanese market), compared with 163 metric tons in 1983 and 390 metric tons in 1982.

Foreign-flag fishing vessels (including vessels processing in any manner fish transferred at sea from U.S.-flag vessels) are currently prohibited from landing fish in U.S. ports by the Nicholson Act (46 U.S.C. 251), a restriction for which the proposed legislation seeks an exception as far as any foreign-trade zone in Hawaii is concerned. Although not specifically stated in the legislation, no application for a Hawaiian FTZ fish processing facility has been filed with or approved by the Foreign-Trade Zone Board of the Department of Commerce.

This report focuses on tuna and on certain groundfish enumerated below, since they are the species which appear most likely to be brought to Hawaii for processing. Tuna is considered by the United States to be a migratory fish whose stocks are not subject to the jurisdiction of any one country; therefore, it is not regulated (or allocated) by the Secretary of Commerce in the manner of other fish species.

As stated, the legislation does not specify any particular fish species or fisheries product form to be covered by the new subsection. However, the possible beneficiary from the legislation could be a fish cannery (Hawaiian Tuna Packers) located in Honolulu, Hawaii. The facility was recently closed (December 1984) as a result of substantial excess capacity in U.S. tuna canning in recent years. The cannery,

owned by Bumble Bee Seafoods, a subsidiary of Castle & Cook, Inc.,[1] was prior to its closing producing primarily for the U.S. market. It employed approximately 500 workers and has historically used foreign-caught tuna for 80 percent of its pack. In 1984, however, with the growth of the U.S. purse seine fleet in the Pacific, it evidently used only domestically caught fish. The cannery has an annual capacity of about 16,000 tons of canned fish.

The tuna which could under the legislation be harvested by U.S.-flag vessels for at-sea transfer to foreign-flag vessels for transshipment to Hawaii would most likely be taken by the U.S. purse seine fleet, now located primarily in the southwestern Pacific. Such U.S. vessels currently land tuna in American Samoa, Guam, and Tinian, or transfer it at sea to foreign-flag vessels for transshipment to canneries in these same ports. It is also possible that foreign-flag vessels might transship albacore tuna harvested by U.S. vessels in the albacore fisheries of the Pacific to the northern Hawaiian archipelago. The U.S. albacore fleet is made up of relatively small tuna vessels that might find it unprofitable to transport tuna to Hawaii themselves and might prefer transferring their catch at sea to other ships for transshipment to Hawaii.

There are several other possible beneficiaries of the subject provision. First, groundfish might be landed in a Hawaiian FTZ by foreign-flag vessels from the Seamount region of the northwestern end of the Hawaiian archipelago. Japanese and other foreign-flag fishing vessels that harvest groundfish under U.S. fisheries allocations might land groundfish in the FTZ for processing and transshipment to the Japanese markets. These armorheads and alfonsin, however, are currently harvested directly by foreign-flag vessels and not by U.S. fishermen, as specified in the subject legislation.

Second, Japanese motherships or processor ships from the joint-venture operations in the North Pacific might land fish in the FTZ. This fish, mostly groundfish, could be used in the manufacture of surimi, a fish paste developed in Japan and used as a base for imitation crabmeat and other seafood analogs. There is a large market for this product in Japan, but it would be economically inefficient to ship the fish to Hawaii for processing and reshipment to Japan, since Hawaii is approximatly as far from the fishing grounds as Japan. A potentially large but as yet undeveloped market for surimi-based products exists in the United States. Currently four firms in Hawaii utilize imported surimi to make seafood analogs; however, their combined annual purchases of surimi are reportedly less than the capacity of a single Japanese processing vessel. Few if any other private firms utilizing surimi exist in the United States; some university research programs do produce limited quantities. Moreover, this product is unlikely to be reexported, as the legislation's sponsor indicated was intended to be required.

Sponsor's justification.—According to the sponsor, the intent of the legislation is to assist the development of Hawaii's fish processing industry[2] by waiving (for Hawaii only) the restriction prohibiting foreign-flag vessels from landing fish in U.S. ports. By allowing the processing of foreign-flag-landed fish in a FTZ in Hawaii, this proposed amendment to the Foreign-Trade Zones Act would encourage an increased supply of fish to come into Hawaii. The domestic fishing fleet in Hawaii is thought by the sponsor to be unable to provide for the state's processing capabilities. The sponsor indicates that owing to the "unique geographical location" of Hawaii, the special status to be accorded to Hawaiian foreign trade zones is necessary to allow the Hawaiian fish processing industry to compete with other industries in the Far East and the Pacific Basin. Injury to local fishermen should not occur, according to the sponsor, because (1) the fisheries products produced in the zone will be restricted to export markets,[3] and (2) the local fishing industry in Hawaii is weak, providing only 40 percent of Hawaii's consumption of fisheries products.[4]

---

[1] Castle & Cook, a conglomerate, is attempting to divest itself of Bumble Bee in an attempt to exit the fish processing industry. The management of Bumble Bee, as well as two Japanese firms, are potential buyers of the Bumble Bee operation. Recent discussions between Castle & Cook and Suisan, a group of Hawaiian investors, are apparently nearing an agreement for transfer of the plant to Suisan, which will reportedly use only one-third of the plant's capacity for fish canning (under the old label, "Coral," still owned by Bumble Bee) for the Hawaiian market only; the remainder of the plant is said to be planned for other noncanning uses. No indication has been made that the new management intends to export fish products produced in the facility.

[2] *Congressional Record* of February 21, 1985, at page E573.

[3] This would be the case only if the FTZ Board restricts the operations of the zone to exportation. The FTZ Act does not mandate zone production to be exported.

[4] In recent years, it is believed that about 55 percent of Hawaii's fish consumption was supplied by the local fishing industry.

Allowing foreign-flag fishing vessels carrying fish harvested by U.S.-flag fish harvesting vessels (which is currently prohibited by the Nicholson Act, not the FTZ Act) to land fish would, according to the sponsor, eliminate the need to have such vessels obtaining fish at sea in the vicinity of Hawaii travel to a foreign country or U.S. insular possession to unload the fish before it can be brought to Hawaii for processing, thus saving the expense and time involved in extra travel for the foreign-flag vessels.

Prior import investigations

The canned tuna industry of the United States was the subject of a recent investigation conducted under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) by the U.S. International Trade Commission (*Certain Canned Tuna Fish, Report to the President on Investigation No. TA-201-53,* USITC Publication 1558, August 1984). The petitioners (a number of fishermen's organizations, processors, and workers' unions) requested in a February 15, 1984 petition an increase in the rate of duty on imports of canned tuna packed in water from 6 percent ad valorem to 35 percent, the present duty imposed on tuna in oil. The petitioners alleged that recent increases in imports of canned tuna in water and in oil were causing injury to the domestic industry and that the 6 percent duty on tuna in water was unfair and outdated, having been set decades earlier when tuna in water constituted only a small part of total U.S. canned tuna consumption. On July 25, 1984, the Commission determined that the subject canned tuna fish was not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic tuna canning industry. The Commission found that over expansion of the U.S. fleet in the 1970's and early 1980's and a shift in the principal fishing grounds from the eastern to western Pacific following a temporary warming of eastern Pacific waters (the "El Nino" effect) were each more important causes of injury than increased imports.

No other industries likely to be affected by this legislation have been the subject of a recent Commission investigation.

Comparison with present law

Tariff treatment under the TSUS.—The fish likely to be landed in the proposed FTZ by foreign-flag vessels are tuna and groundfish (alfonsin, armorhead, or pollock). The former would be landed for use in a tuna cannery, while the latter would likely be used as a raw material for surimi.

Raw tuna is classified in TSUS item 110.10 and raw pollock in TSUS item 110.15. Raw alfonsin and armorhead fall into a residual or "basket" provision, item 110.35, covering fish, not specially provided for, fresh, chilled, or frozen and whether or not whole, but not otherwise prepared or preserved. Canned tuna is classified in either TSUS item 112.30, 112.40, or 112.90, depending on the solution (water or oil) in which it is packed and whether it is below or above specified tariff rate quota levels. The applicable duties and article descriptions as to these products are shown in the tabulation on the following page.

TSUS item No.	Description	Col. 1 rate of duty	Col. 2 rate of duty
	Fish, fresh, chilled, or frozen, whether or not whole, but not otherwise prepared or preserved:		
110.10	Sea herring, smelts, and tuna	Free	Free.
	Other:		
	Whole; or processed by removal of heads, viscera, fins, or any combination thereof, but not otherwise processed:		
110.15	Cusk, haddock, hake, and pollock	Free	Free.
110.35	Other	0.5¢ per lb.	1¢ per lb.

TSUS item No.	Description	Col. 1 rate of duty	Col. 2 rate of duty
	Fish, prepared or preserved in any manner, not in oil, in airtight containers:		
	Tuna:		
112.30	In containers weighing with their contents not over 15 pounds each, and not the product of any insular possession of the United States, for an aggregate quantity entered in any calendar year not to exceed 20 percent of the United States pack of canned tuna during the immediately preceding calendar year, as reported by the National Marine Fisheries Services	6 percent ad valorem	25 percent ad valorem.
112.34	Other	12.5 percent ad valorem	25 percent ad valorem.
	Fish, prepared or preserved in any manner, in oil, in airtight containers:		
112.90	Tuna	35 percent ad valorem	45 percent ad valorem.

Raw surimi is classified in TSUS items 112.14 and 112.36 if in airtight containers and in items 113.58 and 113.60 if not in airtight containers. Surimi-based seafood products are classified in the following TSUS items 112.14, 112.36, 113.08, 113.11, 113.15, 113.20, 113.25, and 183.05. The duties and article descriptions of these tariff items are shown below:

TSUS item No.	Description	Col. 1 rate of duty	Col. 2 rate of duty
	Fish, prepared or preserved in any manner, not in oil, in airtight containers:		
112.14	Pollock	6 percent ad valorem	2 percent ad valorem.
112.36	Other	6 percent ad valorem	25 percent ad valorem.
	Fish balls, cakes, puddings, pastes, and sauces, (including any of such articles in airtight containers):		
	Balls, cakes, and pudding:		
	Not in oil:		
	In immediate containers weighing with their contents not over 15 pounds each:		
113.08	In airtight containers	Free	25 percent ad valorem.
113.11	Other	6 percent ad valorem	25 percent ad valorem.
113.15	Other	0.8 percent ad valorem	2 percent ad valorem.
	Fish sticks and similar products of any size or shape, fillets, or other portions of fish, if breaded, coated with batter, or similarly prepared, whether or not described or provided for elsewhere in this part:		
113.20	Neither cooked nor in oil	10 percent ad valorem	20 percent ad valorem.
113.25	Other	15 percent ad valorem	30 percent ad valorem.
	Fish, prepared or preserved, not specially provided for:		
	Not in oil:		
	In bulk or in immediate containers weighing with their contents over 15 pounds each:		
113.58	Other	Free	1.25¢ per lb.
113.60	Other	6 percent ad valorem	25 percent ad valorem.
	Edible preparations not specially provided for (including prepared meals individually packaged):		
	Other:		
	Other:		
	Other:		
183.05	Other	10 percent ad valorem	20 percent ad valorem.

None of the above items are afforded staged duty reductions under the Tokyo round of the Multilateral Trade Negotiations (MTN); as such, there are no conces-

sionary rates for imports from least developed developing countries (LDDC's)[5] under these items. Items 110.35, 112.36, 113.60, and 183.05 cover articles eligible for duty-free treatment under the Generalized System of Preferences (GSP).[6] All the above tariff items, except 112.30, 112.34, and 112.90, cover articles eligible for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).[7]

Historical tariff background.—Tuna canned in oil was originally dutiable at 30 percent ad valorem under the Tariff Act of 1930 as "Fish, prepared or preserved in any manner, if packed in oil or in oil and other substances." In 1934, as the result of a Presidential proclamation under section 336 of the Tariff Act of 1930 (Equalization of Costs of Production), the rate of duty on such tuna was increased to 45 percent ad valorem. The rate was reduced to 22.5 percent ad valorem in 1943 pursuant to a trade agreement with Mexico; but upon termination of that agreement, in January 1951, the rate reverted to 45 percent ad valorem. Pursuant to a concession (initially negotiated with Japan) under the General Agreement on Tariffs and Trade (GATT), the MFN duty rate on tuna canned in oil was reduced to 35 percent ad valorem effective September 10, 1955. That rate is the one currently in effect under TSUS item 112.90.

Canned tuna in oil was the principal form in which tuna was imported until the duty was increased in 1951. In that year, imports of tuna not canned in oil (principally tuna in brine, now referred to as tuna in water) became of commercial importance for the first time. Within a short period, imports of canned tuna in water constituted virtually all of the imports of canned tuna, and they have remained the predominant type of tuna imported. Such tuna was dutiable at 25 percent ad valorem under the Tariff Act of 1930 as "Fish, prepared or preserved in any manner, if in airtight containers weighing with their contents not more than 15 pounds each (except fish packed in oil or in oil and other substances)." The rate on this canned tuna, not in oil, was reduced to 12.5 percent ad valorem pursuant to a trade agreement with Iceland effective November 1943.[8] A concession on this product was granted under the GATT, effective September 10, 1955, in negotiations with Japan, whereby the ad valorem duty rate of 12.5 percent was bound against increase. In addition, a reservation, made a part of this concession, limited the reduced rate to imports in any calendar year not in excess of 20 percent of the U.S. pack of canned tuna during the immediately preceding calendar year, as reported by the Fish and Wildlife Service (now as reported by the National Marine Fisheries Service). Effective April 14, 1956, the concession on canned tuna, not in oil, was withdrawn from the agreement with Iceland, but the 1955 GATT concession negotiated with Japan remained in effect. Thus, imports not in excess of 20 percent of the preceding year's U.S. pack (those under the tariff-rate quota level) became dutiable by Presidential proclamation at the concession rate of 12.5 percent ad valorem, and those in excess of that quantity became dutiable at the statutory rate of 25 percent ad valorem.

As a result of concessions granted by the United States in the sixth round of trade negotiations under the GATT (the Kennedy round), the duty rate of 12.5 percent ad valorem on imports of canned tuna not in excess of 20 percent of the preceding year's U.S. pack (the below quota tuna, classified in TSUS item 112.30) was reduced in five annual stages to 6 percent ad valorem. At the same time, the rate of duty on such imports in excess of 20 percent of the pack (the over quota tuna, which is now

---

[5] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[6] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[7] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[8] The rate of duty of 12.5 percent ad valorem was initially negotiated under a GATT concession with Taiwan effective May 22, 1948. This concession was withdrawn, effective Jan. 26, 1952, after the withdrawal of Taiwan as a contracting party to the GATT. The 12.5 percent rate continued in effect, however, by reason of the agreement with Iceland.

classified in TSUS item 112.34) was reduced to 12.5 percent ad valorem. These rates of duty became effective January 1, 1972, and they remain in effect.

Inasmuch as surimi and surimi-based seafood products are relatively new articles of commerce, the historical background for the TSUS items in which these products are classified will not be discussed.

Tariff treatment under the proposed Harmonized System (HS).—The tariff classifications and proposed rates of duty for the subject tuna products under the draft conversion of the TSUS to the proposed HS are shown in the tabulation on the following page.

HS commodity code number and index	Product description	Units of quantity	Col. 1 (general) rate of duty [1]
	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304:		
	Tunas (of genus Thunnus), skipjack or stripe-bellied bonito (Euthynnus (Katsuwonus) pelamis) excluding livers and roes:		
0302.31.00—00	Albacore or longfinned tunas (Thunnus alalunga)	Kg	Free.
0302.32.00—00	Yellowfin tunas (Thunnus albacares)	Kg	Do.
0302.33.00—00	Skipjack or stripe-bellied bonito	Kg	Do.
0302.30.00—00	Other	Kg	Do.
	Fish, frozen, excluding fish fillets and other fish meat of heading 0304:		
	Tunas (of genus Thunnus), skipjack or stripe-bellied bonito (Euthynnus (Katsuwonus) pelamis) excluding livers and roes:		
0303.41.00—00	Albacore or longfinned tunas (Thunnus alalunga)	Kg	Do.
0303.42.00—00	Yellowfin tunas (Thunnus albacares)	Kg	Do.
0303.43.00—00	Skipjack or stripe-bellied bonito	Kg	Do.
0303.49.00—00	Other	Kg	Do.
	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs:		
	Fish, whole or in pieces, but not minced:		
	Tunas, skipjack, and Atlantic bonito (Sarda spp.):		
	In airtight containers:		
1604.14.10—00	In oil	Kg	35 percent.
	Not in oil:		
1604.14.20	In containers weighing with their contents not over 7 kg each, and not the product of any insular possession of the United States, for an aggregate quantity entered in any calendar year not to exceed 20 percent of the United States pack of canned tuna during the immediately preceding year, as reported by the National Marine Fisheries Service.	Kg	6 percent.
—20	Albacore	Kg	
—40	Other	Kg	
1604.14.30—00	Other	Kg	12.5 percent.

[1] Proposed to be effective upon implementation of the H.S.

The tariff classifications and duties for the subject groundfish and surimi products under the proposed HS are shown in the following tabulation:

HS commodity code number and index	Product description	Units of quantity	Col. 1 (general) rate of duty[1]
	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304:		
	Other fish, excluding livers and roes:		
	Other:		
	Other:		
0302.69.20	Smelts, cusk, hake (Urophycis spp.), pollock, shad, sturgeon, sword-fish and freshwater fish.	Kg	Free.
0302.69.40—00	Other	Kg	1.1¢ per kg.
	Fish, frozen, excluding fish fillets and other fish meat of heading 0304:		
	Other fish, excluding livers and roes:		
	Other:		
	Other:		
0303.79.20	Smelts, cusk, hake (Urophycis spp.), pollock, shad, sturgeon, sword-fish and freshwater fish.	Kg	Free.
0303.79.40—00	Other	Kg	1.1¢ per kg.
	Fish fillets and other fish meat (whether or not minced), fresh, chilled, or frozen:		
	Other:		
0304.90.10—00	In bulk or in immediate containers weighing with their contents over 6.8 kg each.	Kg	Free.
0304.90.90—00	Other	Kg	6 percent.
	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs:		
	Fish, whole or in pieces, but not minced:		
	Other (including yellowtail):		
	In airtight containers:		
1604.1920—00	Not in oil	Kg	6 percent.
	Other:		
	Fish sticks and similar products of any size or shape, fillets, or other portions of fish, if breaded, coated with batter, or similarly prepared:		
1604.19.40—00	Neither cooked nor in oil	Kg	10 percent.
1604.19.50—00	Other	Kg	15 percent.
	Other prepared or preserved fish:		
	Balls, cakes, and puddings:		
	Not in oil:		
	In immediate containers weighing with their contents not over 6.8 kg each:		
160.4.20.20—00	In airtight containers	Kg	Free.
1604.20.25—00	Other	Kg	6 percent.
	Fish sticks and similar products of any size or shape, shape, fillets, or other portions of fish, if breaded, coated with batter or similarly prepared:		
1604.20.40—00	Neither cooked nor in oil	Kg	10 percent.
1604.20.50—00	Other	Kg	15 percent.
	Crustaceans, molluscs, and other aquatic invertebrates, prepared or preserved:		
	Crab:		
	Crabmeat:		
1605.10.20	In airtight containers	Kg	11 percent.
	Other:		
1605.10.30—00	Containing fish meat of heading 0302, 0303, 0304.	Kg	10 percent.
1605.20.20	Shrimps and prawns	Kg	Free.
1605.30.00	Lobster	Kg	Do.
1605.40.00—00	Other crustaceans	Kg	Do.
	Other:		
	Clams:		
	In airtight containers:		
1605.90.20—00	Other	Kg	7 percent.

HS commodity code number and index	Product description	Units of quantity	Col. 1 (general) rate of duty[1]
1605.90.30—00	Other	Kg	Free.
	Oysters:		
1605.90.50—00	Other	Kg	4.7 percent.
1605.90.60	Other	Kg	Free.

[1] Proposed to be effective upon implementation of the H.S.

Since at the present time the tuna canning industry appears to be the industry that would be most affected by the proposed legislation, the remaining sections of this report focus on that industry.

Structure of the domestic industry

The U.S. tuna fishing fleet consists of about 110 purse seine vessels (large, well-equipped ocean-going ships, often valued at $10 million to $12 million each, which sail the fishing grounds of the high seas in search of tuna) and 600 baitboats (pole, line, and live bait boats) fishing mainly off the coast of California. About 97 percent of the U.S. catch of raw tuna is landed by the purse seine fleet. Data are not available on the sales of raw tuna by the largest vessels in the fleet. However, part of the purse seine fleet is tied to the U.S. processors of tuna via outright or partial ownership, loan guarantees, and/or advanced trip expenses. Virtually all of the fishing fleet's catch of raw tuna is sold to processors.

Six U.S. processing firms currently account for the vast majority of U.S. production of canned tuna. The names and locations of these firms and their facilities are shown below, in order of total domestic production volume by each firm:

Firm	*U.S. facilities*
1. Star-Kist Foods, Inc.; Terminal Island, Calif. (a subsidiary of H.J. Heinz Co., Pittsburgh, Pa.).	(a) Terminal Island, Calif. (b) Mayaguez, P.R. (c) Pago Pago, American Samoa
2. Van Camp Seafood Division; Ralston Purina Co.; St. Louis, Mo.	(a) San Diego, Calif. (b) Pago Pago, American Samoa (c) Ponce, P.R.
3. Bumble Bee Seafoods Division; San Diego, Calif. (a subsidiary of Castle & Cook, Inc., San Francisco, Calif.).	(a) Mayaguez, P.R. (b) Honolulu, Ha.
4. C.H.B. Foods-Pan Pacific Fisheries; Terminal Island, Calif.	(a) Terminal Island, Calif.
5. Neptune Packing Corp.; White Plains, N.Y. (a subsidiary of Mitsui (USA), New York, N.Y.).	(a) Mayaguez, P.R.
6. Mitsubishi Foods, Inc.; Delmar, Calif. (a subsidiary of Mitsubishi Corp., Tokyo, Japan).	(a) Ponce, P.R.

The Terminal Island facility of Star-Kist, the San Diego facility of Van Camp, and the Honolulu facility of Bumble Bee (the plant which this legislation may affect) have recently closed; the remaining facilities are still believed to be in operation. Two other minor processors of canned tuna also exist, together accounting for less than one percent of total U.S. production. In addition to the above facilities, numerous foreign tuna canning facilities are owned or operated by a number of the domestic canners.

Production data for the above firms and their facilities are considered by them to be proprietary in nature and are not publicly available. The concentration ratio of the top four tuna processors' (including Bumble Bee) U.S. production to total domestic production was 89.5 percent in 1983. It should be noted that most of the large tuna canners import a substantial amount of their raw material, as well as obtaining fresh or frozen tuna from their own fleets of fishing vessels or from independent fishing vessels. In addition, a number of the firms market canned tuna imported from foreign sources, including their foreign facilities.

During 1979–83, the average number of workers employed in U.S. establishments in which canned tuna was produced ranged from a high of 16,498 persons in 1980 to a low of 14,749 persons in 1983; data are not available on employment in 1984.

Domestic production

U.S. canned tuna production data, obtained from the National Marine Fisheries Service, are presented in the following tabulation:

[In thousands of pounds]

Year	U.S. pack from domestic commercial landings [1]	U.S. pack from imported fresh/frozen tuna [2]	Total
1980	214,559	387,497	602,056
1981	217,316	409,653	626,969
1982	206,037	332,466	538,503
1983	251,281	339,261	590,542
1984	263,620	350,648	614,268

[1] Includes pack from U.S.-landed tuna in Puerto Rico and American Samoa.
[2] Includes tuna canned in American Samoa from foreign-caught fish.

Total U.S. production of canned tuna (including production from plants in U.S. insular possessions) amounted to 602 million pounds in 1980, increased to a peak of 627 million pounds in 1981, then dropped to a low of 539 million pounds in 1982, before recovering somewhat to 614 million pounds in 1984. In each year, the bulk of the U.S. tuna pack was produced from imported fresh or frozen tuna; in 1984, 57 percent of total canned tuna production was from imported raw material.

U.S. imports and exports

U.S. imports of raw (fresh, chilled, or frozen) tuna during 1980–84 as reported by the U.S. Department of Commerce are tabulated below (in thousands of pounds):

Year	Albacore	Other	Total
1980	127,406	464,874	592,280
1981	126,577	476,719	603,296
1982	145,144	339,909	485,053
1983	114,886	324,194	439,080
1984	153,581	250,643	404,224

These data exclude imports of raw tuna into insular possessions of the United States such as American Samoa and Puerto Rico, where a substantial portion of total domestic pack of canned tuna is produced. Most raw tuna imported into the United States is used as raw material by the canned tuna industry. Raw tuna imports generally declined between 1980 and 1984, from 592 million pounds in the former year to 404 million pounds in the latter year. The decline was entirely in the importation of so-called "light-meat" tuna (any species other than albacore, or "white-meat" tuna), while imports of raw albacore increased overall during 1980–84.

U.S. imports of canned tuna packed in water or brine, both under and over the tariff-rate quota, and of canned tuna packed in oil, are presented in the following table, covering the years 1980–84 (in thousands of pounds):

Year	Canned tuna in water or brine	Canned tuna in oil	Total
1980	63,107	446	63,553
1981	70,583	268	70,852
1982	87,365	213	87,579
1983	122,132	197	122,329
1984	162,036	277	162,313

Between 1980 and 1984, imports of canned tuna increased by 155 percent, from 64 million pounds in 1980 to 162 million pounds in 1984. This increase was entirely in imports of water- or brine-packed tuna, while imports of oil-packed tuna actually declined by 38 percent, from 446,000 pounds to 277,000 pounds during 1980–84.

Canned tuna is imported into the United States by approximately 180 firms. The names and locations of the ten largest importers of canned tuna in the United States are as follows:

1. Atalanta Corp., New York, N.Y.;
2. Camerican International, Inc., Teaneck, N.J.;
3. Connell Foods, Inc., Westfield, N.J.;
4. Lankor International, Carlstadt, N.J.;
5. Lissco Food Industries, New York, N.Y.;
6. Mandalay Food Product Corp., Burlingame, Calif.;
7. Nozaki America, New York, N.Y.;
8. SSC International, Inc., Hackensack, N.J.;
9. Star-Kist Foods Inc., Terminal Island, Calif.;
10. Sinco, Inc., Belmont, Calif.

Most of the importers deal in several food products besides canned tuna; a few also market domestic canned tuna.

U.S. exports of raw and canned tuna account for only a small share of production. Precise data on exports and the names and locations of the principal exporters cannot be published, since to do so would reveal business confidential information.

U.S. apparent consumption

Production, import, and apparent consumption data for canned tuna in the United States are presented below (data from the National Marine Fisheries Service and the U.S. Department of Commerce):

[In thousands of pounds]

Year	Production	Imports	Apparent consumption	Ratio (percent) of imports to apparent consumption
1980	602,056	63,553	665,609	9.5
1981	626,969	70,851	697,820	10.1
1982	538,503	87,579	626,082	13.9
1983	590,542	122,329	712,871	17.1
1984	614,268	162,313	776,581	20.9

Export data are not available, but exports are believed to represent an insignificant portion of total U.S. production of canned tuna. Inventory data are not available.

U.S. apparent consumption of canned tuna amounted to 666 million pounds in 1980, rose to 698 million pounds in 1981, then declined to 626 million pounds in 1982, before peaking in 1984 at 777 million pounds. Throughout the period from 1980 to 1984, imports took an increasing share of apparent consumption, rising from 9.5 percent in 1980 to 20.9 percent in 1984.

Effect on revenue

The sponsor of the bill stated that he intended the product of the fish processing facility receiving the special status to be reexported; no effect on annual customs revenues would occur if reexportation is required. If this restriction is not imposed by the FTZ Board, the effect of the legislation on revenues cannot be calculated, since the level of imports cannot be determined.

Technical comments

The legislation does not specify the species of fish to be landed by foreign-flag vessels and the product form which the processed fish would take. The implications of the legislation on U.S. fish harvesting and processing interests vary widely with differing species.

The sponsor remarked in introducing the bill that under foreign-trade zone status, these processed fish must be reexported. If it is the intent of the sponsor to require the reexportation of the processed fish, it should be so stated in the bill.

Finally, it may be less confusing if the proposed exception is incorporated into the Nicholson Act rather than the FTZ Act, and if a specified effective date (perhaps contingent on the award of FTZ status to the facility) is included.

Statement of Kent M. Keith, Director of Planning and Economic Development, State of Hawaii

SUMMARY

We support H.R. 1218 to amend the Foreign-Trade Zones Act to permit the landing of U.S. caught fish by foreign flag vessels in Hawaii.

Benefits anticipated from this legislative change would accrue to the fishing industry and the general public through increased business activity and employment.

We recommend public hearings to be held on H.R. 1218.

STATEMENT

I appreciate this opportunity to comment on the merits of H.R. 1218, a bill introduced by Representative Cecil Heftel of Hawaii.

As Director of the State Department of Planning and Economic Development, I recognize the need for the support of Hawaii's existing industries and the development of new industries as necessary ingredients to insuring our economic viability.

Hawaii's fishing industry dates back to the early native Hawaiian residents who perfected very efficient techniques for raising and harvesting this resource to sustain their livelihood.

Today, with excessive demands on our resources and high costs associated with competing for world markets, it is essential that our citizens be given the opportunity to share in the growth of this industry.

Recently, Hawaii's only tuna fish cannery was closed, leaving some 400 persons without employment. The economic factors contributing to the closure of this facility are many, but cost of producing a competitive product for domestic, as well as export markets, was singled out as most prominent.

Our State, situated in the mid-Pacific, is ideally suited to being a major base for fishing fleets where catches can be landed, processed, and transshiped to various markets.

H.R. 1218, if adopted, would amend the Foreign-Trade Zones Act (19 USC 81a-81u), to permit the landing of U.S. caught fish by foreign flag vessels in Hawaii for shoreside processing in Foreign-Trade Zones facilities.

We are the grantee and operator for Foreign-Trade Zone No. 9, Subzone No. 9A and 9B and are thoroughly familiar with the law and regulations under which Zones function. From our vantage point, we believe there would be public benefits to be gained by the passage of this legislation. Some of these benefits are as follows:

Higher quality product delivered by process vessels.

Ability for U.S. fishermen to increase their catch without returning to home port, thus saving fuel.

Ability for cannery to operate at lower cost, i.e., no duty on fish products, cans and packing material, as well as no State taxes on processing, purchase of fish product, or export sales. This would facilitate the reemployment of 400 people recently displaced when the cannery was closed.

Further benefits in terms of increased jobs and income would accrue to the local community because of:

Increased vessel supply sales, i.e., fuel, food, and equipment.

Vessel and equipment repairs.

Crew purchases.

Fees for husbandry, stevedores, pilots, and port operators (dockage, wharfage).

The U.S. Customs Service would be the federal agency charged with monitoring activities at such a facility governed by Foreign-Trade Zones regulations.

For the reasons stated above, we respectfully suggest that public hearings on H.R. 1218 be conducted.

If further information on this matter is required, please contact me at P.O. Box 2359, Honolulu, Hawaii 96804, telephone (808) 548-6914.

This statement is submitted on behalf of the general public of the State of Hawaii.

Statement of the City of Valdez, Alaska

SUMMARY AND RECOMMENDATIONS

The City of Valdez, Alaska, strongly endorses H.R. 1218, amended to include the Valdez Foreign Trade Zone in Alaska, that would allow foreign flag ships to land fish products, caught by U.S. fishermen, in a foreign trade zone, for additional processing or storage prior to re-export.

In support of H.R. 1218, the City of Valdez herein offers its evidence and reasoning to show that such legislation would:

Offer opportunities for growth of the U.S. fishing industry;
Create more U.S. jobs;
Stimulate additional American business activities; and
Would not cause competition with existing U.S. fish industry.

The City of Valdez requests that the Subcommittee include Foreign Trade Zones in Alaska under the amendment. Further, Valdez urges passage of H.R. 1218 to promote the growth of the U.S. fishing industry as well as its own local economic activity.

The situation with at-sea processing of fish in the Gulf of Alaska

Under existing foreign-flag fish processing, ships which buy fish from American fishermen in the Gulf of Alaska cannot land the fish within the U.S., or its territorial waters, or in foreign trade zones. Instead they must take the American-caught fish to foreign ports in Canada, Mexico or Japan, where additional processing or handling is required, and trans-shipment to foreign markets is made. Such processing and other services such as bunker fuelling, ship servicing/repair, cargo handling and others are carried out by foreigners, instead of Americans.

Virtually all at-sea processing equipment is foreign built because of the high cost of U.S. construction. It is uneconomic to process certain species of underutilized ground fish found in Alaska waters anywhere but at sea. Therefore, short term efforts to develop these rich food sources will require foreign vessels. If U.S. fishermen are to harvest such underutilized species as mackerel, Pacific whiting, squid and Alaska Pollock, they need foreign processing vessels to compete on the international market.

Furthermore, if the U.S. fishing industry is to benefit from increased fishing of underutilized species, and from the much higher value of processed fish products, it must make arrangements for foreign-flag processing ships to land in U.S. foreign trade zones for processing and storage activities.

H.R. 1218 offers substantial inducements to growth in the U.S. fishing industry

Enactment of H.R. 1218, amended to include the Valdez Trade Zone, would, by permitting foreign fish processing vessels to land in the Foreign Trade Zone for additional processing or storage prior to export, create substantial new American fish business, thereby greatly enhancing industry growth. Although the United States controls the largest, most productive fishing zone in the world, it runs a fish producing deficit of over $4 billion annually. Instead, the U.S. should be a big fish exporter.

H.R. 1218, with Valdez's proposal, would remove an artificial barrier to natural, healthy growth in the fish industry. It would be a logical use of the Foreign Trade Zone for one of its intended purposes.

The favorably situated Valdez Trade Zone could attract more foreign-flag processors operating in the vast Gulf of Alaska area from the southwest Alaska Peninsula to Southeastern Alaska. If the Foreign Trade Zone were open to these vessels for additional processing, storage, fuelling, repair, etc., its proximity and services would draw the processor vessels in large numbers to Valdez. This would permit longer fishing time for American fishermen, and shorter trips for the processors, thereby contributing significantly to the efficiency and volume of U.S. fish processing. Additionally, by decreasing the at-sea time between catches and processing, this arrangement would contribute significantly to the size of American catches, the variety of underutilized fish caught, and to the quality of the end product.

Creation of American jobs

Considering the crucial need for increased employment in Alaska, and the U.S., the creation of jobs in connection with this project is one of its most important assets.

Valdez Foreign Trade Zone Manager Margaret Green estimates that, within five years, new jobs created in the Foreign Trade Zone, plus those indirectly developed in Valdez (three indirect jobs for each direct job in the Foreign Trade Zone) would total about 1,200. This compares with present total employment for all of Valdez of 1,525, in all economic activities.

Valdez and the State of Alaska need this kind of permanent expansion into renewable-resource employment for now and the future, when the presently dominant oil economy is expected to begin tapering off. The benefits to Valdez go beyond the economic to social and cultural factors involved in such a large, but gradual, population increase. This would contribute substantially to the healthy growth and social stability of the Valdez community. Such a contribution is particularly important to

Valdez which, although as beautifully situated as any place in the world, experiences isolation from other communities in Alaska.

Creation of additional American business activity

The foreign fish-processor landings in the Valdez Foreign Trade Zone would produce annually an estimated 100,000 additional short tons of raw fish for added processing, storage and export. Its raw value is estimated at $14,000,000. After processing, the finished products would come to about $84,000,000 for an increase factor of about 1 to 6. This recurring annual business would be a great boon to the Valdez and Alaskan economy.

In addition to these factors, the added Foreign Trade Zone activity would create, and add to, various kinds of business activities in the Zone, and in the community. Consider these activities essential to fish processing in a Foreign Trade Zone:

Direct: processing, packaging fish products (freezing, drying, canning), loading/unloading, stevedoring, dockage, wharfage, customs, transfers of shipping crews, fuel bunkering, ship provisioning, ship repairs, spare parts, storing, piloting.

Indirect: management, communications, clerical, insurance, hotels, restaurants, recreation, travel for crews, tourism for crews.

The benefits of this wide range of business activity would also add new social dimensions and exciting cultural diversity to Valdez life.

No competition with existing U.S. fish industry

Valdez wishes to stress that the processing activities proposed in the Foreign Trade Zone would in no way compete with domestic fishing markets. All of its output would be exported to help balance the growing U.S. trade deficit. The amendment would not affect current laws which protect the U.S. shipbuilding industry by requiring ships in coastwise trade to be constructed in the U.S. It would apply only to foreign-flag fish processing ships engaged in foreign commerce.

The trade that Valdez seeks to stimulate by this proposal involves American fishermen selling their catch in increased quantities to foreign fish processors, for processing by more Americans for export—rather than by foreigners, as is currently the case.

CONCLUSION

The City of Valdez believes that passage of H.R. 1218, amended to include the Valdez Foreign Trade Zone, would create opportunities for rapid growth of its fishing industry. This is anticipated from encouragement of at-sea processing facilities and the funnelling of U.S. fish products to U.S. ports for additional processing, and other services prior to export.

As a matter of record, the City Council of Valdez passed Resolution #8533, June 3, 1985, in full support of H.R. 1218. Copies of that resolution will be delivered to the subcommittee early next week. We urge the subcommittee to cover foreign trade zones in Alaska under H.R. 1218, and request its passage at the earliest possible time.

CITY OF VALDEZ, ALASKA

RESOLUTION NO. 8533

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, SUPPORTING THE CONCEPT OF H.R. 1218 WHICH WOULD AMMEND THE F.T.Z. ACT AND ADMIT CERTAIN FISH INTO THE FOREIGN TRADE ZONE.

WHEREAS, present law prevents the landing, manipulation, and general processing of fish landing on U.S. soil by a foreign flag vessel even though the fish may have been caught by a U.S. flag vessel through a joint venture agreement.

WHEREAS, Representative Cecil Heftel of Hawaii introduced H.R. 1218 on February 21, 1985 in Congress, and the main elements of the bill are; "Regarding the admission of certain fish into foreign trade zones in Hawaii- be it inacted that Section 5 (which speaks about vessels at zones) a new subsection- no provision of this act nor any other provision of law may be construed as prohibiting the bringing of fish into a zone (for manipulation or manufacturing within a zone in Hawaii) by a foreign flag vessel if that fish was harvested by a vessel of the U.S. and transferred at sea to that foreign flag vessel under authority of the Magnuson Fishery Conservation and Management Act (16 USC 1801 ETC)."

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA THAT

Section 1. The City Council of the City of Valdez supports the concept of H.R. 1218 and urges our Alaska Congressional delegates to support this change of the F.T.Z. Act.

Section 2. We ask that our Congressional delegates ask that a rider be attached to include the State of Alaska.

Section 3. When enacted we firmly believe it could be substantially to the benefit of Alaska and Valdez.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, this 3rd day of June, 1985.

CITY OF VALDEZ, ALASKA

John Devens

John Devens, Mayor

ATTEST:

Valdez Chamber of Commerce

P.O. Box 512 • Valdez, Alaska 99686 • Phone 835-2330

TO: Jim Watson, City Manager
City of Valdez
P.O. Box 307
Valdez, AK 99686

FROM: Valdez Chamber of Commerce
P.O. Box 512
Valdez, AK 99686

CITY OF VALDEZ
JUN 27 1985

RE: Support of H.R. 1218

The Board and Membership of the Valdez Chamber of Commerce hereby passes a resolution to support H.R. 1218, introduced in Congress, on February 21, 1985, by Representative Cecil Heftel of Hawaii. The main elements of the bill are: "Regarding the admission of certain fish into foreign trade zones in Hawaii-be it inacted that Section 5(which speaks about vessels at zones)a new subsection-no provision of this act nor any other provision of law may be construed as prohibiting the bringing of fish into a zone(for manipulation or manufacturing within a zone in Hawaii)by a foriegn flag vessel if that fish was harvested by a vessel of the U.S. and transferred at sea to that foreign flag vessel under authority of the Magnuson Fishery Conservation and Management Act(16 USC 1801 ETC)."

The Valdez Chamber of Commerce urges our Alaska Congressional delegates to support this change in the FTZ Act, and to attach a rider to include the State of Alaska. The Valdez Chamber of Commerce firmly believes that when enacted, this change in the FTZ Act will substantially benefit Alaska and Valdez.

Thank you for your attention to this matter, which is of particular importance to our State and our Community.

Sincerely,

William J. Simpson, President
Valdez Chamber of Commerce

C.C.: Representative Cecil Heftel
Senator Ted Stevens
Senator Frank Murkowski
Representative Don Young

H.R. 1249

Relating to the tariff treatment of fresh and concentrated grapefruit juice

U.S. International Trade Commission

Section-by-section analysis

H.R. 1249, if enacted, would add two new items to the Tariff Schedules of the United States TSUS) to provide tariff treatment for imports of grapefruit juice comparable to that provided for orange juice in legislation that became effective January 1, 1985. In addition, the legislation is designed to lower the rates of duty currently applicable to grapefruit juice.

Currently, not concentrated grapefruit juice is dutiable at a column 1 [1] duty rate of 20 cents per gallon, and concentrated grapefruit juice is dutiable at a column 1 rate of 35 cents per gallon.[2] The rate for not concentrated juice applies to both natural (fresh) juice and to juice produced from concentrated juice (reconstituted). One effect of this legislation would be that the rate of duty applicable to not concentrated grapefruit juice would apply only to natural unconcentrated grapefruit juice and not to reconstituted grapefruit juice. Currently, foreign grapefruit juice concentrate can be exported to a third country, reconstituted, and then entered into the United States as a not concentrated citrus juice at the lower rate of duty.

In addition, this legislation reduces the rate of duty for not concentrated grapefruit juice from the current 20 cents per gallon to 15 cents per gallon, and reduces the rate of duty for concentrated grapefruit juice from the current 35 cents per gallon to 30 cents per gallon.[3]

Background and justification

Description and uses.—Grapefruit juice is derived from the fruit of subtropical evergreen trees of the grapefruit, genus *Citrus*, family Rutaceae. The grapefruit juice covered by this bill may not be mixed with other fruit juices, but may be sweetened or unsweetened, not concentrated (single-strength) or concentrated, and may not contain over 1 percent of ethyl alcohol by volume. If concentrated, the juice may be in liquid, powdered, or solid form.

Grapefruit juice is marketed at retail primarily in the forms of frozen concentrate, canned (pasteurized) single-strength juice, chilled single-strength juice in bottles and cartons, and mixtures with other single-strength fruit juices. Grapefruit juice used for further processing, chiefly into single-strength juice, is usually packed in highly concentrated frozen form. In addition to its use as a beverage, it is an important base for soft drinks and is also used to flavor cakes and candy.

Sponsor's justification.—According to the sponsor of this legislation, the lower rates of duty would aid in importing additional supplies of grapefruit juice to supplement the temporary lower domestic supplies of grapefruit juice resulting from freeze damage to grapefruit trees in recent years, especially in Texas. He also pointed out that, unlike orange juice imports, imports of grapefruit juice are not significant.

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The duty rate is per gallon of single-strength equivalent juice.

[3] Representatives for the grapefruit juice industry in Florida have indicated to the staff of the Commission their intention of having another grapefruit juice bill introduced in Congress which would maintain the 20-cent and 35-cent per gallon rates of duty.

Comparison with present law

Tariff treatment under the TSUS.—Grapefruit juice which is not mixed, not concentrated, and does not contain over 1.0 percent of ethyl alcohol by volume, is classified for tariff purposes under TSUS item 165.32. This item includes all citrus fruit juices, other than lime and orange juice, with these characteristics. The column 1 rate of duty applicable to this item is 20 cents per gallon (10.4 percent ad valorem equivalent in 1984), and the column 2 [4] rate is 70 cents per gallon. Included under this item are juices which are reconstituted from concentrate.

Grapefruit juice which is concentrated is classified under TSUS item 165.36. This item includes all concentrated citrus fruit juices, other than lime and orange juice, which are not mixed and do not contain over 1.0 percent of ethyl alcohol by volume. The column 1 rate of duty applicable to this item is 35 cents per gallon (27.7 percent ad valorem equivalent in 1984) [5] and the column 2 rate is 70 cents per gallon.

Items 165.32 and 165.36 are not eligible for duty-free treatment under the Generalized System of Preferences (GSP),[6] and no least developed developing country (LDDC) [7] rates are provided. Imports from designated Caribbean countries could be eligible for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).[8] Staged rate reductions were not negotiated for these tariff provisions in the Tokyo Round of Multilateral Trade Negotiations (MTN). Under the recently negotiated free-trade agreement with Israel [9] items 165.32 and 165.36 were designated sensitive articles and excluded from the benefits of duty-free treatment for a period of 5 years.

Tariff treatment under the proposed Harmonized System (HS).—The tariff treatment for grapefruit juice under the proposed Harmonized System (HS) is shown in exhibit 1.

Structure of the domestic industry

U.S. processing firms that produce grapefruit juice generally also process orange juice, but in significantly larger quantities than the production of grapefruit juice. Nationally, an estimated 40 firms process grapefruit juice from fresh fruit and nearly seven-eights of them are located in Florida. The number of firms processing citrus juice in Florida, as reported by the Florida Citrus Processors Association, has declined irregularly, as shown in the following tabulation:

Processing firms

Crop year:	
1979/80	36
1980/81	37
1981/82	36
1982/83	31
1983/84	33

A list of the current members of the Florida Citrus Processors Association is attached as exhibit 2. The five largest producers of grapefruit juice are believed to

---

[4] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[5] For concentrated juice, the duty is calculated on the number of gallons of reconstituted single-strength juice which can be made from a gallon of the concentrate.

[6] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[7] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDG" column for a particular item, the rate of duty in column 1 applies.

[8] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated basin countries.

[9] These trade negotiations were authorized under Title IV of the Trade and Tariff Act of 1984, Public Law 98–573.

account for nearly one-half of the Florida production of grapefruit juice and are believed to be the following companies: TreeSweet Products Co., Southern Fruit Distributors, Inc., Lykes Pasco Packing Company, Ocean Spray Cranberries, Inc., and Tropicana Products, Inc. In Texas, producers of grapefruit juice include Texas Citrus Exchange in Mission, Tex. and Texsun Corporation in Weslaco, Tex. In California, Sunkist Growers, Inc. is the largest producer of grapefruit juice.

Domestic production

U.S. production of grapefruit juice (on a single-strength equivalent basis) averaged 170 million gallons annually during 1980–82, and declined to an annual average of 110 million gallons during 1983–84 (table I). Florida supplied about 80 percent of the domestic production over the 5-year period. Both Florida and other States showed a reduced output during 1983–84 when compared to the preceding 3-year period. While much of Florida's production of concentrated grapefruit juice is later reconstituted to produce single-strength juice before sale to the ultimate consumer, the share of Florida's total production that is initially concentrated increased from 54 percent in 1980 to 79 percent in 1984. Thus, the quantity of single-strength grapefruit juice produced directly from fresh grapefruit in Florida has declined dramatically from 66 million gallons in 1980 to 20 million gallons in 1984.

U.S. imports

Separate statistics for U.S. imports of grapefruit juice are not available. U.S. imports of not concentrated grapefruit juice are estimated to have been less than 1 million gallons annually during 1980–84. In 1984, when not concentrated orange juice was excluded from the basket class for the first time, U.S. imports of other not concentrated citrus fruit juices (predominately grapefruit juice) totaled 1.1 million gallons and 84 percent of the imports were from Canada.

In 1984 U.S. imports of other concentrated citrus fruit juices (predominately grapefruit juice) totaled 3 million single-stength equivalent gallons, valued at $3.5 million (table 2). The primary suppliers in 1984 were Brazil (39 percent), Belize (34 percent), and Mexico (19 percent). The imports from Belize in 1984 entered free of duty under the CBI. No imports were from that source during 1980–83.

U.S. exports

During 1980–84 U.S. exports of grapefruit juice, both not concentrated and concentrated (measured on a single-strength basis), were equivalent to 12 percent of domestic production. Exports declined irregularly from 18.3 million gallons in 1980 to 15.5 million gallons in 1984, which is a smaller percentage decline (15 percent) than the decline in production (39 percent). Japan, Canada, and West Germany were the principal export markets for grapefruit juice in 1984 (table 3).

Apparent U.S. consumption

During 1980–84, the apparent U.S. consumption of grapefruit juice declined irregularly from 163 million gallons in 1980 to 97 million gallons in 1984 (table 4). Average annual U.S. consumption during 1983–84, after several freezes in producing States, was 99 million gallons, down 37 percent from the average annual 156 million gallons consumed during 1980–82. Nearly all of this decline may be accounted for by a decline in production, which fell 35 percent between the two periods. The ratio of imports of "other citrus juice" to consumption of grapefruit juice did not exceed 6 percent during 1980–84, and was generally in the range of 1 percent to 3 percent.

Effect on revenue

If enacted, this legislation would reduce the column 1 rate of duty on not concentrated grapefruit juice by 5 cents per gallon (from 20 cents to 15 cents) and increase the duty rate collected on reconstituted single-strength grapefruit juice by 10 cents per gallon (from the current 20 cents for not concentrated juice to the proposed 30 cents for concentrated juice). The legislation would also reduce the column 1 rate of duty on concentrated grapefruit juice by 5 cents per single-strength equivalent gallon (from 35 cents to 30 cents). Based on the assumption that all imported not concentrated other citrus fruit juice in 1984 was made from reconstituted grapefruit juice concentrates,[10] the potential net gain in customs revenues resulting from the proposed changes in the tariff treatment would be about $55,000, based on dutiable imports entered in 1984. Based on the assumption that all imported concentrated citrus fruit juice other than lime or orange entered in 1984 was concentrated grape-

[10] It can be assumed that most not concentrated other citrus fruit juice imported in 1984 was made from reconstituted grapefruit juice and that most imported concentrated other citrus fruit juice was grapefruit juice.

fruit juice,[10] the total loss in customs revenues resulting from the proposed duty rate reduction would be about $96,000, based on dutiable imports entered in 1984. Thus, the net potential annual loss of revenue resulting from enactment of this legislation would be about $41,000.[11]

GATT comments

The present rate of duty on not concentrated citrus fruit juices has been bound under Article II of the General Agreement on Tariffs and Trade (GATT). Therefore, if this legislation were to have the effect of increasing the duty above the agreed level,[12] the United States could be subject to claims by affected contracting parties for compensatory concessions, or to retaliatory withdrawal of benefits previously granted to the United States.

Technical comments

The bill proposes to remove from the basket categories items 165.32 and 165.36 the product which accounts for most of the imports under those items. Therefore, we suggest that these categories be redesignated as items 165.37 and 165.38. In addition, the item number proposed for not concentrated grapefruit juice, item 165.30, has been used recently in the TSUS. Therefore, we suggest that items 165.31 and 165.34 be used for the two grapefruit provisions. Also, additional language is needed to ensure that the new provisions appear in the TSUS at the appropriate indentation levels. We note that the typographical error "to the nearest 9.5 degree" has been corrected by the sponsor to read "to the nearest 0.5 degree", as was originally intended.

In order to implement the above changes we propose that lines 5 to the end of the bill be stricken and that the following language be inserted in its place:

---

[11] If the tariff treatment changes proposed in the bill for not concentrated grapefruit juice were enacted, and the rate-of-duty reductions were not enacted, the potential gain in customs revenues, using the stated assumptions, would be $165,000, based on dutiable imports entered in 1984.

[12] Although this legislation proposes a reduction in the duty rates applicable to both not concentrated and concentrated grapefruit juice, it also is designed to ensure that the higher rate for concentrated juice applies to reconstituted juice previously classifed as not concentrated. Thus, the legislation could have the effect of raising the duty rate applicable to this product.

inserting after item 165.29 the following new items and superior headings thereto, with the superior headings at the same indentation level as the article description "lime" in item 165.25:

"	Grapefruit:			
165.31	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree)----------	15¢ per gal.		70¢ per gal.
165.34	Other----------	30¢ per gal.		70¢ per gal.
	Other:			
165.37	Not concentrated----------	20¢ per gal.		70¢ per gal.
165.38	Concentrated----------	35¢ per gal.		70¢ per gal. "

Sec. 2. The amendments made by the first section of this Act apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day following the date of enactment of this Act.

Table 1.—Grapefruit juice: U.S. production, in Florida by type, and in other States, crop years ending 1980–84

(In thousands of gallons, single-strength equivalent)

Crop year ending—	Florida			Other States 2/	Total
	Concentrated	Single strength 1/	Total		
1980	77,771	66,480	144,251	35,000	179,251
1981	83,053	50,848	133,901	25,000	158,901
1982	87,475	45,961	133,436	40,000	173,436
1983	57,933	25,987	83,920	27,000	110,920
1984	77,164	20,232	97,396	12,000	109,396

1/ Chilled grapefruit juice and canned grapefruit juice produced from fruit (does not include product produced from concentrates).

2/ Estimate based on the number of boxes of grapefruit processed in Arizona, California, and Texas.

Source: Production in Florida from the Florida Department of Citrus and production in other States compiled from official statistics of the U.S. Department of Agriculture, as noted.

Table 2.—Citrus fruit juice, not specially provided for, concentrated, not mixed: 1/ U.S. imports for consumption, by principal sources, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 gallons, single-strength equivalent)				
Brazil	739	0	8,496	1,484	1,176
Belize	0	0	0	0	1,022
Mexico	115	595	207	304	571
West Germany	38	173	573	299	95
Jamaica	0	0	2/	0	108
France	0	0	0	13	55
Netherlands	0	0	0	0	13
Argentina	991	371	371	1,174	0
All other	60	157	55	343	6
Total	1,943	1,296	9,702	3,617	3,046
	Value (1,000 dollars)				
Brazil	317	–	6,666	504	1,433
Belize	–	–	–	–	911
Mexico	133	524	184	106	492
West Germany	149	462	2,047	1,032	362
Jamaica	–	–	3/	–	121
France	–	–	–	25	86
Netherlands	–	–	–	–	32
Argentina	1,449	181	189	413	–
All other	149	171	94	815	21
Total	2,197	1,338	9,180	2,895	3,458
	Unit value (per gallon, single-strength equivalent)				
Brazil	$0.43	–	$0.78	$0.34	$1.22
Belize	–	–	–	–	.89
Mexico	1.15	$0.88	.89	.35	.86
West Germany	3.96	2.68	3.57	3.45	3.79
Jamaica	–	–	39.08	–	1.12
France	–	–	–	1.89	1.56
Netherlands	–	–	–	–	2.41
Argentina	1.46	.49	.51	.35	–
All other	2.48	1.09	1.71	2.38	3.50
Average	1.13	1.03	.95	.80	1.13

1/ Includes concentrated grapefruit juice. During 1980–83, this statistical class did not include lime or orange juice, and during 1984, this statistical class did not include lime, orange, or lemon juice.

2/ Less than 500 gallons.

3/ Less than $500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 3.--Grapefruit juice, concentrated and not concentrated: U.S. exports of domestic merchandise, by principal markets, 1980-84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 gallons, single-strength equivalent)				
Japan	2,507	5,151	3,566	3,854	4,418
Canada	6,870	7,340	5,544	4,090	4,008
FR Germ	960	1,374	1,377	1,245	2,160
U King	2,169	1,433	914	499	1,013
Italy	284	478	445	344	315
France	662	563	515	417	317
Israel	859	2	2	304	643
Nethlds	1,690	597	2,434	888	576
S Arab	339	338	501	355	248
Switzld	464	676	352	300	512
All other	1,542	1,950	2,073	2,062	1,320
Total	18,348	19,902	17,722	14,360	15,528
	Value (1,000 dollars)				
Japan	3,936	7,763	4,866	4,888	8,611
Canada	12,376	12,678	9,659	7,446	7,512
FR Germ	1,351	1,530	1,438	998	1,549
U King	3,624	2,069	962	597	925
Italy	669	1,085	1,245	750	809
France	1,274	1,217	1,101	902	769
Israel	1,173	4	4	288	651
Nethlds	3,105	762	2,386	693	585
S Arab	578	721	877	635	552
Switzld	898	838	404	333	538
All other	2,485	2,934	2,961	2,878	2,418
Total	31,468	31,602	25,902	20,408	24,920
	Unit value (per gallon, single-strength equivalent)				
Japan	1.57	1.51	1.36	1.27	1.95
Canada	1.80	1.73	1.74	1.82	1.87
FR Germ	1.41	1.11	1.04	.80	.72
U King	1.67	1.44	1.05	1.20	.91
Italy	2.35	2.27	2.80	2.18	2.58
France	1.92	2.16	2.14	2.16	2.42
Israel	1.36	2.59	2.43	.95	1.01
Nethlds	1.84	1.28	.98	.78	1.02
S Arab	1.71	2.13	1.75	1.79	2.22
Switzld	1.93	1.24	1.15	1.11	1.05
All other	1.61	1.50	1.43	1.50	1.83
Average	1.72	1.59	1.46	1.42	1.60

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 4.—Grapefruit juice: U.S. production, exports of domestic merchandise, imports for consumption, and apparent consumption, 1980–84

(In thousands of gallons, single-strength equivalent)

Year	Production 1/	Exports	Imports 2/	Apparent consumption	Ratio (percent) of imports to consumption 2/
1980	179,251	18,348	1,943	162,848	1
1981	158,901	19,902	1,296	140,295	1
1982	173,436	17,722	9,702	165,416	6
1983	110,920	14,260	3,617	100,177	4
1984	109,396	15,528	3,046	96,914	3

1/ Data are for crop years ending in the years indicated.

2/ Imports of concentrated citrus fruit juice not specially provided for; data include grapefruit juice, lemon juice (during 1980–83), and miscellaneous citrus fruit juices, excluding orange and lime.

Source: Production, compiled from the Florida Department of Citrus and official statistics of the U.S. Department of Agriculture; exports and imports, compiled from official statistics of the U.S. Department of Commerce.

EXHIBIT I

TRADE POLICY STAFF COMMITTEE
OFFICE OF THE U.S. TRADE REPRESENTATIVE
WASHINGTON, D.C. 20506

CONVERSION OF THE TARIFF SCHEDULES OF THE UNITED STATES INTO THE NOMENCLATURE STRUCTURE OF THE HARMONIZED SYSTEM, REVISED, SHOWING ADMINISTRATIVE CHANGES APPROVED BY THE TRADE POLICY STAFF COMMITTEE

SEPTEMBER 1984

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

20-6

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty: General	Special	2
2008 (con.)		Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included (con.):				
		Other, including mixtures other than those of subheading 2008.19 (con.):				
2008.99 (con.)		Other (con.):				
		Berries:				
2008.99.15	00	Blueberries	kg	3.5% [1]		35%
2008.99.20	00	Other	kg	7%		35%
2008.99.23	00	Cashew apples, sapodillos, sapotes and sweetsops	kg	2.8%		35%
2008.99.25	00	Dates	kg	35%		35%
2008.99.28	00	Figs	kg	12%		40%
2008.99.30	00	Guavas	kg	Free [1]		35%
2008.99.35	00	Lychees	kg	14%		35%
2008.99.40	00	Mangoes	kg	3.3¢/kg		33¢/kg
		Papayas:				
2008.99.45	00	Pulp	kg	17.5%		35%
2008.99.50	00	Other	kg	42		35%
2008.99.60	00	Plums, prunes and prunelles	kg	17.5%		35%
2008.99.61	00	Soybeans	kg	8.5%		35%
2008.99.63	00	Sweet ginger	kg	9%		35%
2008.99.65	00	Yucca	kg	17.5%		35%
		Other:				
2008.99.80	00	Pulp	kg	15%		35%
2008.99.90		Other		7%		35%
	10	Bean cake, bean stick, miso and similar products	kg			
	90	Other	kg			
2009		Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter:				
		Orange juice:				
2009.11.00	00	Frozen	litero..	9.23¢/liter		18¢/liter
2009.19		Other:				
2009.19.20	00	Not concentrated	litero..	9.3¢/liter		18¢/liter
2009.19.40	00	Concentrated	litero..	9.23¢/liter		18¢/liter
2009.20		Grapefruit juice:				
2009.20.20	00	Not concentrated	litero..	9.3¢/liter		18¢/liter
2009.20.40	00	Concentrated	litero..	9.23¢/liter [1]		18¢/liter
2009.30		Juice of any other single citrus fruit:				
		Lime:				
2009.30.10	00	Unfit for beverage purposes	kg	2.76¢/kg		11¢/kg
2009.30.90		Other		2.4¢/liter		18¢/liter
	20	Not concentrated	litero			
	40	Concentrated	litero			
		Other:				
2009.30.40	00	Not concentrated	litero..	9.3¢/liter		18¢/liter
2009.30.60	00	Concentrated	litero..	9.23¢/liter		18¢/liter
2009.40		Pineapple juice:				
2009.40.20	00	Not concentrated, or having a degree of concentration of not more than 3.5 degrees (as determined before correction to the nearest 0.5 degree)	litero..	5.3¢/liter		18¢/liter
2009.40.40	00	Other	litero..	1.3¢/liter		18¢/liter
2009.50.00	00	Tomato juice	litero..	0.3¢/liter		4¢/liter
2009.60.00		Grape juice (including grape must)		6.6¢/liter		24¢/liter
	20	Not concentrated	litero			
	40	Concentrated	litero			
2009.70.00	00	Apple juice	litero..	Free		1.3¢/liter
2009.80		Juice of any other single fruit or vegetable:				
2009.80.20	00	Pear juice	litero..	Free		1.3¢/liter
2009.80.40	00	Prune juice	litero..	1¢/liter		18¢/liter
2009.80.60	00	Other	litero..	0.8¢/liter		18¢/liter
2009.90.00	00	Mixtures of juices	litero..	9.23¢/liter		18¢/liter

EXHIBIT 2

FLORIDA CITRUS PROCESSORS ASSOCIATION MEMBER COMPANIES

Adams Packing Association, Inc.
P. O. Box 37
Auburndale, Florida 33823
Telephone: A/C 813 967-4431

Alcoma Packing Company, Inc.
P. O. Box 231
Lake Wales, Florida 33853
Telephone: A/C 813 696-1487

Allsun Products, Inc.
P. O. Box 338
Highland City, Florida 33846
Telephone: A/C 813 646-1418

American Orange Corporation
P. O. Box 999
Arcadia, Florida 33821
Telephone: A/C 813 494-0440

Ardmore Farms, Inc.
P. O. Box 183
Deland, Florida 32720
Telephone: A/C 904 734-4634

B & W Canning Company, Inc.
P. O. Box 1133
Orlando, Florida 32802
Telephone: A/C 305 841-0011

Ben Hill Griffin Citrus Company
P. O. Box 2000
Frostproof, Florida 33843
Telephone: A/C 813 635-2211

Berry Citrus Products, Inc.
P. O. Box 5609
Winter Haven, Florida 33880-0415
Telephone: A/C 813 324-4988
(LaBelle - 813 675-2769)

Bordo Citrus Products Cooperative
P. O. Box 1152
Winter Haven, Florida 33882
Telephone: A/C 813 294-5951

Caulkins Indiantown Citrus Company
P. O. Box 458
Indiantown, Florida 33456
Telephone: A/C 305 597-3511

Citrus Belle
P. O. Box 536
LaBelle, Florida 33935
Telephone: A/C 813 675-0336

Citrus Service, Inc.
P. O. Box 218
Winter Garden, Florida 32787
Telephone: A/C 305 656-3233

Citrus World, Inc.
P. O. Box 1111
Lake Wales, Florida 33853
Telephone: A/C 813 676-1411

Coca-Cola Foods
A Division of The Coca-Cola Company
P. O. Box 247
Auburndale, Florida 33823
Telephone: A/C 813 967-6611

Cook's Processing, Inc.
P. O. Box 1597
Haines City, Florida 33844
Telephone: A/C 813 422-1121
(Plant: 3155 Winter Lake Road
Lakeland, Florida 33801
813 665-5415)

Florida Food Products, Inc.
P. O. Box 1300
Eustis, Florida 32726
Telephone: A/C 904 357-4141

Golden Gem Growers, Inc.
Drawer 9
Umatilla, Florida 32784
Telephone: A/C 904 669-2101

Holly Hill Fruit Products Co., Inc.
P. O. Box 708
Davenport, Florida 33837
Telephone: A/C 813 422-1121

H. P. Hood Inc.
427 San Christopher Drive
Dunedin, Florida 33528
Telephone: A/C 813 733-2121

Indian River Foods, Inc.
P. O. Box 1749
Fort Pierce, Florida 33454
Telephone: A/C 305 464-5770

Juice Bowl Products, Inc.
P. O. Box 1048
Lakeland, Florida 33802
Telephone: A/C 813 665-5515

Kraft, Inc.
P. O. Drawer B-N
Lakeland, Florida 33802
Telephone: A/C 813 686-1173

Lykes Pasco Packing Company
P. O. Box 97
Dade City, Florida 34297-0097
Telephone: A/C 904 567-5211

Ocean Spray Cranberries, Inc.
925 74th Avenue, S.W.
Vero Beach, Florida 32962
Telephone: A/C 305 562-0800

Orange-co of Florida, Inc.
P. O. Box 2158
Bartow, Florida 33830
Telephone: A/C 813 533-0551

Silver Springs Citrus Cooperative
P. O. Box 1046
Winter Garden, Florida 32787
Telephone: A/C 305 656-1122

Southern Fruit Distributors, Inc.
P. O. Box 8367
Orlando, Florida 32856
Telephone: A/C 305 859-3550

Southern Gold Citrus Products, Inc.
Food Products Division
The Seven-Up Company
P. O. Box 7538
Orlando, Florida 32854
Telephone: A/C 305 295-0461

Sun Pac Foods, Inc.
P. O. Box 9365
Winter Haven, Florida 33883
Telephone: A/C 813 533-0808

Sunstar Foods, Inc.
Citrus Division
P. O. Box 950
Lakeland, Florida 33802
Telephone: A/C 813 858-4491

TreeSweet Products Co.
P. O. Box 189
Fort Pierce, Florida 33454
Telephone: A/C 305 461-3800

Tropicana Products, Inc.
P. O. Box 338
Bradenton, Florida 33506
Telephone: A/C 813 747-4461

Winter Garden Citrus Products Cooperative
P. O. Box 399
Winter Garden, Florida 32787
Telephone: A/C 305 656-1000

STATE OF FLORIDA,
DEPARTMENT OF CITRUS,
Lakeland, FL, June 27, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR CONGRESSMAN GIBBONS: The following comments are filed by the undersigned in opposition of H.R. 1249 by Mr. De La Garza relating to the tariff treatment of fresh (non-concentrated) and concentrated grapefruit juice. Written testimony was requested by the Subcommittee on Trade May 16, 1985 regarding various tariff and trade bills.

H.R. 1249 is an amendment to Subpart A of Part 12 of Schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202) and would lower U.S. tariffs on imported non-concentrated grapefruit juice by 25% and concentrated grapefruit by 14½%.

The State of Florida is the largest U.S. producer of grapefruit, currently accounting for 79% of total U.S. supply and typically 50% of world supply. Thus, the proposed amendment is of critical concern to the Florida citrus industry.

Current data regarding plantings and tree ages project sizeable increases in total Florida grapefruit production through 1994-95. Based on average planting rates, production will attain a 63 million boxes crop by 1994-95, a 43% increase from the current 1984-85 crop of 44.2 million boxes. Some 41% of Florida's grapefruit trees are 14 years of age or younger which provides the base for these sizeable crop increase projections. If new tree plantings should be heavier than average, the 1994-95 crop could be as high as 68 million boxes.

Although Florida has experienced adverse weather conditions during four of the past five seasons, grapefruit production has suffered less severe setbacks than other citrus varieties, due to the location of the majority of plantings along Florida's east coast and south-central Florida.

The expected production increase, coupled with the expected return of Texas to the marketplace, will add pressure on supply-demand relationships. (See enclosed Appendix.)

Any reduction of current U.S. import tariffs will further aggravate supply-demand relationships and cause negative economic conditions as well as loss of tax revenues to the United States government.

Season average "on-tree" prices (grower returns) for Florida grapefruit for processing dropped severely during the 1981-82, 1982-83 and 1983-84 seasons. On-tree prices ranged from a low of minus $.04 per box in 1982-83 to $.83 per box in 1983-84. Current on-tree returns for processed grapefruit are estimated to be up only slightly from the past two seasons. The current higher prices allow growers to recover from financial squeeze brought about by low prices of the previous two seasons. However, prices are likely to be less favorable in future seasons if production expands as projected.

Texas and Arizona on-tree prices for processed grapefruit for the same three seasons have shown extremely low grower returns. Texas returns dropped from $2.31 per box in 1980-81 to a low of $.14 per box in 1982-83, $.24 per box in 1983-84. Arizona processed grapefruit on-tree prices ranged from a low of minus $1.24 to a high of minus $.46 during these same seasons.

On-tree prices for processed products at this low level for Arizona, Texas and Florida do not foster or lend support for any tariff reductions on concentrated or non-concentrated grapefruit juice.

Adequate supplies of processed grapefruit juices continue to be available domestically, and any tariff reduction would in the long run reduce returns to the low levels quoted and may even slow the recovery of the Texas grapefruit industry, as well as other U.S. producing states.

We respectfully urge this Subcommittee to give full consideration toward opposing H.R. 1249.

Sincerely,

W. BERNARD LESTER,
Executive Director,
Florida Department of Citrus.
CLIFFORD C. BEASLEY, Jr.,
Executive Vice President,
Florida Citrus Processors Association.

Enclosure.

Outlook Update for Grapefruit, 1983-84*

The grapefruit situation and outlook has changed significantly as a result of freezes in Florida and Texas. The supply reduction has resulted in increased prices for both fresh fruit and processed products. The purpose of this report is to provide projections of utilization of the freeze-reduced crop along with projections of availability and movement of the major processed products.

FREEZE DAMAGE

The December 25-26 freeze in Florida will probably be recognized as one of the most damaging freezes in the modern history of the industry. This is the third major freeze in the past four growing seasons. Since Florida typically produces 75% of the grapefruit in the U.S., the freeze will have a major impact on the fresh and processed products markets.

The Christmas freeze was not very democratic. Damage was more severe in the upper interior and west coast production areas. A major portion of the grapefruit is produced in the lower interior and east coast production areas. During the last five seasons the lower interior and east coast areas accounted for more than 80% of the State grapefruit production (Figure 1).

The March 9 crop forecast placed Florida grapefruit production at 38.0 million boxes, down 8 million boxes from indicated production in the December crop report. The 1982-83 crop was 39.4 million boxes. The 1983-84 crop will be the smallest crop since 1969-70 when production was 37.4 million boxes (Figure 2).

Freezing temperatures in the citrus production area of Texas have reduced Texas fruit supplies. The USDA March 9 crop report indicates that Texas production this season will be 3.2 million boxes (Figure 3). In December the Texas crop was expected to be 11.5 million boxes. The forecast 1983-84 Texas crop will be the smallest harvest since the 1967-68 season.

Unofficial reports indicate that tree damage in Texas was extensive and that many of the trees may not be replanted in cases where the tree was killed by the low temperatures. In some cases the Texas citrus producers are expected to replace lost grapefruit trees with orange trees. The total acreage devoted to citrus production is not expected to return to the pre-freeze level. In Texas there were 42.2 thousand bearing acres in grapefruit production in 1982-83 compared with 128.6 thousand in Florida and 28.1 thousand in California and Arizona. The 1982-83 acreage in Texas was at the highest level since 1950 when 56 thousand acres were in production.

RETAIL GRAPEFRUIT JUICE SALES

Retail sales of grapefruit juice declined from a peak of 105.7 million SSE gallons in 1977-78 to a low of 89.58 million gallons last season according to A.C. Nielson (Figure 4). The decline in sales in 1982-83 from the previous season reflects a decline in sales of canned juice. Sales of frozen concentrate and ready-to-serve (R-T-S) product increased slightly from the 1981-82 level (Table 1). However, the increased sales of FCGJ and R-T-S were more than offset by a decline in sales of canned juice.

GRAPEFRUIT JUICE PRICES

Current FOB prices for some grapefruit juice products are above previous season average prices. The current price for CSSGJ is $8.25 per 12-46 oz. cans, 18¢ above the peak season average price of $8.07 per case observed in the 1980-81 season (Figure 5). The increased FOB price will translate into higher retail prices and reduced retail sales. The extent of the retail sales decline will depend upon how the retailers handle the FOB price increases.

The spread between FOB and retail prices for CSSGJ has increased in recent years (Figure 6). In 1971-72 the retail price exceeded the FOB price by 64¢ per single strength gallon. Last season the spread was $1.28 per gallon. The FOB price of the product in Florida last season was 53% of the retail selling price. The retail price declines from the peak price in 1980-81 of $3.12 per gallon have almost matched the declines in the FOB price during the same time period. The FOB price declined by 43¢ per gallon between 1980-81 and 1982-83 while the retail price declined by 40¢.

---

*Prepared by Dan L. Gunter, Economic Research Director, and Mark G. Brown, Research Economist, Florida Department of Citrus, March 13, 1984.

RETAIL SALES FORECASTS

We developed updated forecasts of grapefruit juice sales based on the assumption that the FOB price increases on grapefruit juice would be passed along to the consumer with an additional 30% mark-up of the FOB price increase by the retailers. The most recent FOB price changes were used as the basis for the forecasts. A forecast for each of the major product forms was developed, and the forecasts were summed for the projection of total 1983–84 retail grapefruit sales. As a result of the anticipated increases in retail prices, total Nielsen grapefruit juice sales are expected to be 81.5 million SSE gallons in 1983–84 compared with 89.6 million SSE gallons last season (Figure 4). The decline in retail sales is expected to result in large part from a decline in sales of canned products with smaller declines in sales of the other product forms.

UTILIZATION

As indicated above, USDA's March 9 crop forecast placed the 1983–84 grapefruit crop at 38 million boxes (Table 2). We anticipate that 15.0 million boxes will be utilized in certified fresh market channels. As of March 4, 9.8 million boxes had been utilized fresh. Of the remaining crop we aniticipate that 5.2 million boxes will be shipped into fresh market channels. We project 3.5 million boxes will be utilized directly for canned juice, 16.0 million boxes for frozen concentrate, 1.3 million boxes for chilled juice, 1.0 million boxes in non-certified market channels, and 1.2 million boxes for sections, salads and blends.

CANNED GRAPEFRUIT JUICE OUTLOOK

The beginning canned grapefruit juice inventory in 1983–84 was 2.4 million 24/2 case equivalents, down 44% from the previous season (Table 3). Based on an assumed yield of 1.28 24/2 cases per box, pack from fruit is projected to be 4.5 million cases with 6.1 million packed from concentrate. Availability is expected to total 13.0 million cases. Through FCPA report 21, canned juice movement has been 4.4 million 24/2 cases, down 0.8 million cases from movement through the same report of the 1982–83 season. At a season average price of $7.85 per dozen 46-ounce cans, total movement during the 1983–84 season is expected to be 11.0 million cases. Carryover is expected to be 2.0 million cases or 9.5 weeks supply.

CHILLED JUICE OUTLOOK

Before considering the specific projections on availability and movement of chilled grapefruit juice, it shoud be noted that there has been a significant change in the weekly reporting of chilled juice market data by the Florida Processors Association's members. Beginning with 1983–84, the pack and movement data include that portion of the juice packed out of state which originated in Florida and upon which DOC taxes were paid. Prior to 1983–84, some members had reported on this basis. The change in reporting should be kept in mind when reviewing the pack and movement estimates and when comparing 1983–84 and previous seasons.

The beginning chilled grapefruit juice inventory was 1.3 million single strength gallons as of October 2, 1983 (Table 4). Based on an assumed yield of 4.7 gallons per box, 6.1 million gallons are expected to be packed from fruit with 19.1 million gallons packed from concentrate during 1983–84. Availability is expected to total 26.5 million gallons. Through FCPA report 21, chilled juice movement has been 9.9 million single strength gallons. At a season average price of $8.35 per dozen 32-ounce containers, movement is expected to be 25.0 million gallons with a carryover of 1.5 million gallons which represents 3.1 weeks supply.

FCGJ OUTLOOK

The beginning 1983–84 FCGJ inventory was 5.4 million 40° Brix gallons (Table 5). Based on an assumed yield of 1.0 40° Brix gallon per box, we expect pack to be 16.0 million gallons, with availability totaling 21.4 million gallons. Through FCPA report 12, FCGJ movement has been 4.1 million 40° Brix gallons. At a season average price of $3.15 per dozen 6-ounce cans, movement is projected to reach 18.8 million 40° Brix gallons. Carryover is projected to be 2.6 million gallons, or 7.2 weeks supply. The projected carryover at the expected season average price may not be adequate.

DERIVED FRUIT VALUES

Estimates of derived delivered-in and on-tree values of fruit are based on the FOB price projections, expected yields and estimates of processing, and pick and haul costs for 1983–84 season. The estimates of processing and pick and haul costs were obtained from industry sources.

The derived fruit values reflect industry average returns from cooperatives and participation plans. They do not, however, represent any individual firm's returns. Further, the derived values are not necessarily expected to be equal to cash prices.

The FOB prices for interior pink and white grapefruit are about equal to the prices at the same time last season. According to the March 5 CAC report, the interior white grapefruit price has averaged $3.72 per 4/5-bushel carton so far this season, while the pink price has average $4.40. Indian River prices have averaged $4.21 and $5.53 per 4/5-bushel carton for white and pink varieties, respectively. The Indian River prices are 15¢ to 60¢ higher than at this time last season.

On-tree returns for fresh grapefruit vary for white and pink varieties. The on-tree prices are based on an assumed season average FOB price of $4.00 per 4/5-bushel carton for white grapefruit and $5.00 per 4/5-bushel carton for pink grapefruit. Assuming packing costs of $2.10 per carton, the derived delivered-in value for fresh white grapefruit is $3.80 per box and $5.80 per box of pink grapefruit. Assuming pick and haul costs of $1.40 per box, the derived on-tree return for fresh white grapefruit is $2.40 per box. The on-tree returns for pink grapefruit is estimated to be $4.40 per box.

The derived delivered-in and on-tree values for processed grapefruit are based on the reflected returns for canned juice. Assuming a season average FOB price of $7.85 per dozen 46-ounce cans during 1983–84, processing costs of $5.25 per case, and a yield of 1.0 case per box, the derived delivered-in value for processed grapefruit is $2.60 per box. The derived on-tree value is $1.20 per box assuming pick and haul costs of $1.40 per box. Current cash market prices for grapefruit are reported to be 95¢ to $1.05 per pound of solids which is in excess of the reflected delivered-in returns. In short crop years, it is possible for supply deficits to result in increases in the delivered-in price. However, we anticipate average delivered-in and on-tree prices for the season to be more in line with the above estimates rather than the current cash market prices being reported.

H.R. 1256

To prohibit the importation into the United States of Benzidine, its salts, and benzidine-based products, and for other purposes

See statement of American Federation of Labor and Congress of Industrial Organizations under H.R. 821.

U.S. International Trade Commission

Section-by-section analysis

If enacted, H.R. 1256 would prohibit importing benzidine and benzidine products into the United States. The term "Benzidine products" includes "any salt of benzidine, any product that contains, or is based upon, benzidine, and 3,3'-dichlorobenzidine." [1]

Background and purpose

Description and uses.—Benzidine is a synthetic organic chemical used by producers of synthetic organic dyes. At least 100 direct dyes and a number of acid dyes can be made from this intermediate chemical. The dyes are then used in the paper, leather, and textile industries.

Following World War II, direct dyes (mainly benzidine dyes) were among the more widely used dyes in the United States. Since then the market share of these dyes has declined, in part, for two reasons. First, since the synthetic dye industry is a technically competitive industry, a number of substitute dyes, such as vat and reactive dyes with comparable physical and dyeing characteristics, were developed. Second, benzidine dyes are most effective on cotton and cellulosic fibers. As synthetic fibers developed in the 1950's and 1960's, alternative dyes more suitable for synthetics were developed.[2]

In 1973, after benzidine had been shown to be carcinogenic in humans, the Occupational Safety and Health Administration (OSHA) introduced formal regulations on the use of benzidine.[3] In 1978, OSHA issued regulations on the use of three benzidine dyes: direct blue 6, direct black 38, and direct brown 95.[4] Concern about benzidine dyes arose after metabolic studies showed that humans could absorb these dyes and then metabolically reproduce the benzidine.[5] Following issuance of these regulations, U.S. production of benzidine and benzidine dyes declined, and today no benzidine and only a relatively small quantity of benzidine dyes are being produced.

Dichlorobenzidine (DCB) is a synthetic organic chemical used by the synthetic pigments industry. It is an intermediate chemical for a major class of pigments known as "diarylid yellows," which are used extensively in the paint and ink industries (pigment orange 13, pigment orange 34, and pigment red 38 are also produced from DCB). Diarylid pigments have been manufactured in the United States since the 1930's, and, according to industry analysts, there are no known substitutes that impart the same color and physical characteristics at a comparable cost.

DCB is also the intermediate used to produce 3,3'-diaminobenzidine (tetraaminobiphenyl). This derivative is then used in the manufacture of a heat-stable polymer, polybenzimidazole (PBI). When formed into a fiber, PBI is used in numerous protective clothing applications such as NASA space suits, fireman's apparel, and crash

---

[1] H.R. 1256, p. 3.

[2] U.S. International Trade Commission, *U.S. Synthetic Organic Dye Industry: Its Competitiveness in the World Market*, 1981, p. 18.

[3] For current regulations see OSHA Safety and Health Standards (29 CFR 1910) paragraph 1910.1010.

[4] Issued under the Occupational Safety and Health Act of 1970, section 5A1 (Pub. Law 91-596).

[5] National Institute of Occupational Safety and Health, *Current Intelligence Bulletin, No. 24* (NIOSH 78-148). See also National Institute of Occupational Safety and Health, *Carcinogenicity and Metabolism of Azo Dyes, Especially Those Derived from Benzidine*, (NTIS PB 81-171027).

rescue garments. According to industry analysts, PBI is currently being considered for military, aerospace, and medical applications. The importance of PBI has resulted in its being listed as an "A" classified material on the Department of Commerce commodity control list for national security purposes.[6] Also, tetraaminobiphenyl is currently eligible for duty free entry into the United States under item 907.32 of the Appendix to the TSUS.

In 1973, after DCB had been shown to be carcinogenic in animals (and therefore potentially carcinogenic in humans), OSHA introduced formal regulations on its use.[7] Industry analysts report that in response to these regulations, the industry invested the appropriate capital to comply with the regulations for producing and handling the material. In addition, metabolic studies have shown that DCB-based pigments are not absorbed in animals. As a consequence, metabolic regeneration of the original DCB is unlikely.[8]

There are other intermediates used by the dye industry that are structurally similar to benzidine and dichlorobenzidine. Three of the more common intermediates are 3,3'-dimethylbenzidine (o-tolidine), 3,3'-dimethoxybenzidine (dianisidine), and 4,4'-diamino-2,2'-biphenyldisulfonic acid. These chemicals are used to produce direct and acid dyes that are similar to benzidine dyes. None of these intermediates are commercially produced from benzidine. However, because of the structural similarity of these products to benzidine, a number of toxicology studies have been initiated. One comprehensive study, "The Benzidine Dye Initiative," is currently under way at the National Toxicology Program in Research Triangle Park, N.C.[9]

Sponsors purpose.—In a press release dated February 24, 1985, Congressman Don J. Pease (D-Ohio) stated that the bill, by banning imports of cancer-causing benzidine and benzidine-containing products, "encourages the world community to take immediate steps to end all worker exposure to the deadly chemical." He stated that benzidine has been known to be a carcinogen for more than 50 years. The press release referred to a recent study by the Collegium Ramazzini, a Sweden-based environmental and occupational health science group, outlining the effects of benzidine and recommending its regulation.

In the press release the Congressman stated that benzidine "is effectively banned" from U.S. manufacture because of U.S. regulations, but there were no existing U.S. restrictions on imports of the chemical or products containing it. He stated that there was "no need" for the product, that substitute chemicals and dyes exist and are widely used, and that the economic impact on users of a ban "will be very, very small. . . ."[10]

Tariff treatment

The products potentially affected by this bill are located in schedule 4 of the Tariff Schedules of the United States (TSUS). The intermediates are in part 1 of schedule 4, while the dyes and pigments are in part 9 of schedule 4. Table 1 gives the tariff line, the column 1 and column 2 rates of duty for benzidine, DCB, and the benzidine-like intermediate chemicals. Table 2 gives the tariff lines and the column 1 and column 2 rates of duty for the appropriate classes of dyes and pigments.

U.S. production and structure of the domestic industry

Benzidine has not been produced in the United States during the last five years. During this period, 3,3'-dichlorobenzidine has been produced in large quantities by the Upjohn Co., Fine Chemical Division, in North Haven, Connecticut and the Bofors Lakeway Co. in Muskegon, Michigan. Eastman Kodak made a small quantity of highly purified o-tolidine for use as a diagnostic material.[11] The other intermediate benzidine-like products were not produced in the United States during this period.

During the last five years, benzidine dyes have been produced by one domestic dyestuffs manufacturer, Fabricolor, Inc., in Patterson, New Jersey.[11] At least 20 companies in the synthetic pigments industry produced DCB-based pigments during 1980–84. In 1983, more than 20 million pounds, valued at approximately $126 million, were produced in the United States. This accounted for more than 26 percent

---

[6] Export Administration Regulations (15 CFR) supplement 1 to part 399.1, p. 95.

[7] For current regulations, see *OSHA Safety and Health Standards*, 29 CFR 1919, paragraph 1910.1007.

[8] Rye, W. A., et al., "Facts and Myths Concerning Aromatic Diamine Curing Agents," Journal of Occupational Medicine, June 1970.

[9] *National Toxicology Program Fiscal Year 1984 Annual Plan*, February 1984, pp. 127–130.

[10] News Release, Congressman Don J. Pease, Feb. 24, 1985.

[11] Confidentiality considerations prevent disclosure of the exact quantities.

(by quantity) of domestic pigment production.[12] One company, Celanese Corporation, Charlotte, N.C., produces PBI from imported 3,3'-diaminobenzidine.

U.S. imports

Recent imports of benzidine-, dichlorobenzidine-, and benzidine-based products are listed in table 3. A large portion of these imports comes from Western Europe and Japan.

U.S. exports

Export data on benzidine and "benzidine-based" products are not available. Industry analysts note, however, that the only products likely to be exported are the diarylid yellow pigments.

Potential annual loss of revenue

There would be no tariff revenue loss resulting from banning imported benzidine, since no benzidine is currently being imported. For dichlorobenzidine, tariff revenue losses in 1986 resulting from a ban on imports would be approximately $800,000.[13] Due to the potential diversity of benzidine-based products affected by this bill, it is impossible to estimate a total annual revenue loss resulting from a ban on imports.

Technical comments

Several problems exist with the draft legislation. First, the correct nomenclature for dichlorobenzidine is 3,3'-dichlorobenzidine. Second, the definition in section 3(a) of the term "benzidine product," imports of which would be prohibited, may conflict with certain statements and assumptions elsewhere in the bill. For example, section 2(a)(6) states that benzidine and its derivatives "are no longer produced in the United States," and section 2(a)(7) states that "there is no evidence that the general welfare would be harmed by the elimination of benzidine and its compounds from commerce." Sections 3(b) and 4 of the bill state that the Secretary of Commerce is to specify which benzidine products are to be prohibited from entry. If the term "benzidine products" is interpreted broadly, a significant number of products produced in several major U.S. industries would be affected. Products such as diarylid pigments and 3,3'-diaminobenzidine are arguably benzidine derivatives, are produced in the United States, and are considered to be important articles of commerce.

Third, section 2(a) (3) and (4) imply that production of benzidine and benzidine products have shifted to the developing countries where there are no regulations. However, the data show that a substantial portion of U.S. imports of these products is shipped from Western Europe and Japan, where, according to industry sources, strict regulations are in effect.[14]

If the purpose of the legislation is to eliminate worker exposure to carcinogenic material with minimal disruption to segments of U.S. industry, the bill should be worded to expressly enumerate (with the appropriate chemical name) those products which are (1) known carcinogens in humans and (2) proven harmful despite regulated use.

Finally, the bill designates two subsections as subsection 3(b). The second of the two, which treats with enforcement, should be redesignated as subsection 3(c).

GATT comments

As a general rule, the imposition of restrictions on imports of an article could give rise to a request for compensation or to retaliation by adversely affected trading partners under the GATT. However, Article XX of the GATT provides that nothing in the agreement is to be construed as preventing the adoption or enforcement by any contracting party of measures "necessary to protect human, animal or plant life or health . . . ."

---

[12] Detailed information for earlier years was not available.
[13] Based on 1983 import data.
[14] 29 CRF 1910.1010.

TABLE 1.—COLUMN 1 AND COLUMN 2 RATES OF DUTY FOR BENZIDINE, 3,3-DICHLOROBENZIDINE AND BENZIDINE LIKE INTERMEDIATES

TSUS No.	Chemical	Rates of duty	
		Col. 1	Col. 2
404.8800 [1]	Benzidine	1.2¢/lb. plus 18.8 percent ad valorem.	7¢/lb. plus 60 percent ad valorem.
404.90 [2]	3,3'-diaminobenzidine	Free	7¢/lb. plus 60 percent ad valorem.
404.8800	3,3'-dichlorobenzidine	1.2¢/lb. plus 18.8 percent ad valorem.	7¢/lb. plus 60¢ ad valorem.
404.8400	3,3'-dimethylbenzidine	7.7 percent ad valorem	7¢/lb. plus 39.5 percent ad valorem.
405.0700 [1]	4,4'-diamino-2,2'-biphenyldisulfonic acid	1.7¢/lb. plus 15.6 percent ad valorem.	7¢/lb. plus 50 percent ad valorem.
404.8800	3,3'-dimethoxybenzidine		

[1] These products are provided for in the Chemical Appendix to the Tariff Schedules.
[2] The column 1 rate of duty has been suspended until December 1, 1988. See Appendix item 907.32.

TABLE 2.—COLUMN 1 AND COLUMN 2 RATES OF DUTY FOR BENZIDINE BASED DYES AND 3,3'-DICHLOROBENZIDINE BASED PIGMENTS

TSUS No.	Chemical	Rates of duty	
		Col. 1	Col. 2
409.7800	Direct dyes	13.1 percent ad valorem	7¢/lb. plus 53.5 percent ad valorem.
409.8200		22.2 percent ad valorem	7¢/lb. plus 64.5 percent ad valorem.
409.8400		15 percent ad valorem	7¢/lb. plus 64.5 percent ad valorem.
409.6200	Acid dyes	12.7 percent ad valorem	7¢/lb. plus 52 percent ad valorem.
409.6600		22.7 percent ad valorem	7¢/lb. plus 69.5 percent ad valorem.
409.6800		15 percent ad valorem	7¢/lb. plus 69.5 percent ad valorem.
410.32	Diarylid yellow pigments	22.8 percent ad valorem	7¢/lb. plus 70.5 percent ad valorem.

TABLE 3.—IMPORTS OF BENZIDINE AND BENZIDINE—BASED PRODUCTS

[Quantity in pounds]

Chemical	1980	1981	1982	1983
Benzidine	8,990			
3,3'-diaminobenzidine		7,003	11,776	24,355
3,3'-Dichlorobenzidine	324,263	616,266	646,285	1,104,370
3,3'-Dimethoxybenzidine	661,351	779,643	544,084	761,698
3,3'-Dimethylbenzidine	364,391	449,425	339,554	239.022
4,4'-Diamino-2,2'-biphenyl-disulfonic acid	25,642	32,155	13,172	34,018
Diarylid yellow pigments	92,430	65,633	58,666	134,690
Selected benzidine dyes	314,637	316,470	305,250	254,134

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in response to your request of April 24, 1985 for the views and recommendations of the U.S. Environmental Protection Agency (EPA) on H.R. 1256, the "Benzidine Protection and Control Act of 1985."

The bill would prohibit the import of benzidine and benzidine-based products because of risks to workers in other countries where these substances are produced for export to the United States. The bill authorizes the Secretary of Commerce to prescribe regulations and other procedures to enforce this prohibition.

The Agency currently has adequate authority to ban chemicals. Therefore, EPA generally opposes chemical-specific legislation. With regard to H.R. 1256, we also have specific concerns with certain provisions of the bill. We are providing the enclosed comments for your consideration.

The Office of Management and Budget has advised that there is no objection to the presentation of these views from the standpoint of the Administration's program.

We appreciate the opportunity to review and comment on this bill.

Sincerely,

JOSEPHINE S. COOPER,
Assistant Administrator for External Affairs.

Enclosure.

EPA COMMENTS ON H.R. 1256

Sec. 2

The bill prohibits the importation of benzidine and benzidine-based products (and not manufacture), apparently because "benzidine and its derivatives are no longer produced in the United States, but these chemicals continue to be imported into the United States." Banning the importation of these products will not eliminate their manufacture in this country. For example, approximately 200,000–300,000 pounds per year of the benzidine-based dyes alone were produced 1983. It should be noted, however, that U.S. production has dropped significantly for most benzidine-based dyes because the chemical industry is already concerned about carcinogenicity. Epidemiologic work shows that benzidine is a bladder carcinogen. Most of these dyes have substitutes but there are a few exceptions.

As written, the bill would affect both benzidine-based dyes and pigments. Although the banning of benzidine-based dyes may have a relatively small impact in terms of volume, the banning of the intermediate, 3,3' dichlorobenzidine (mentioned in the bill), would be very significant. Over 19 million pounds were produced in 1983 by twenty domestic manufacturers. In certain animal studies, moreover, the toxicity of pigments made from this intermediate was shown to be of lesser concern than that benzidine dyes.

EPA does not believe that it is necessary to identify benzidine products for statutory ban because there are adequate federal authorities to deal with any benzidine problems that may exist. For example, the Occupational Safety and Health Administration (OSHA) has benzidine listed as one of the 14 cancer suspect agents in the OSHA Safety and Health Standards (29 CFR 1910) with specific occupational controls. At the EPA, under the Toxic Substances Control Act New Chemicals Program, we have noted a trend away from benzidine-based dyes and toward other substitutes. Under the TSCA Premanufacture Notice review process, we have not allowed any new benzidine dyes into the market which we believe would pose as significant risk.

Sec. 3(a)

"Benzidine product" is defined as "any salt of benzidine, any product that contains, or is based upon, benzidine, and 3,3' dichlorobenzidine." This definition raises several questions.

First, the definition could be read as providing that the bill is intended to apply to products which contain benzidine, benzidine salts, and 3,3' dichlorobenzidine only as impurities, as well as to products in which those substances are intended constituents. If so, the bill will be extremely difficult to administer and enforce because persons who import substances or mixtures often do not know the identities of the impurities. EPA found in its TSCA experience that PCBs occur as impurities in many other substances and mixtures. Many rulemaking resources have been consumed to

deal with these relatively small amounts of PCBs, especially when the PCBs cannot be totally eliminated and the substances in which they occur are essential.

Second, it is not clear from the definition what the phrase "is based upon . . . benzidine" means. This could mean that the essential benzidine structure is present in the molecule or only that benzidine is a feedstock used to make the product. The nature of the structural relationship of the product to benzidine is not adequately defined.

Third, if the intent of the bill is to control unreasonable risk to workers by focussing solely on benzidine and benzidine-based products, EPA believes that this is too narrow an approach to the problem. Chemicals which might be substituted for benzidine, were it banned, may also pose unreasonable risks. For example, two other benzidine analogues (other than dichlorobenzidine which is mentioned in the bill) are *tolidine* (dimethyl benzidine) and *dianisidine* (dimethoxy benzidine). Recent National Toxicology Program bioassays demonstated that these two analogues are animal carcinogens. These analogues are not covered in the definition section of the bill.

EPA believes that a broader definitional approach would be better in reducing risk. For example, EPA is concerned not only with the 19 commercially-available benzidine-based dyes but also with dyes that may present similar health hazards. EPA is in the process of developing a strategy on approximately 1,000–2,000 dyes, including benzidine dyes.

In addition, EPA is currently looking at ways to collect better workplace exposure data on dyes in general. Besides the manufacturers of benzidines, other workers who may be exposed include textile workers, carpet weavers and paper processors. More exposure data is necessary before it can be decided whether or not additional EPA controls are needed.

Sec. 3(b)

The bill provides that import of benzidine would be prohibited, but any "benzidine product" would be subject to the import prohibition only if "specified by the Secretary of Commerce under section 4(a)." Section 4(a) of the bill contains no criteria for the Secretary to make these decisions. Accordingly, the Secretary could choose to prohibit import of all benzidine products or no benzidine products. Criteria for specifying particular benzidine products would logically include considerations of toxicity since those form the basis of the bill in the first place. If toxicity is to be among the criteria, the Department of Commerce would not be the appropriate agency to make such scientific judgments, and should be required to consult with the regulatory and science agencies with expertise in the field before making its decisions. Further, if the designation of the Department of Commerce indicates that economic or trade considerations should also be part of the decision to specify a benzidine product, those criteria should be spelled out as well.

If toxicity is to be a criterion for prohibiting import of benzidine products, we must recognize that not all benzidine products have actually been tested for carcinogenicity. Accordingly, any judgment of the potential toxicity of an untested benzidine product will have to be based on analysis of its chemical structure relative to benzidine and other benzidine derivatives and salts. EPA has developed experience in such structure activity analysis in the premanufacture review program under section 5(a) of TSCA which could prove useful.

Section 3(b) "Enforcement of Prohibition" (which should be section *3(c)*) implies that the Department of Treasury, through the Customs Service, will be responsible for implementing the prohibitions. This would be complicated because, as EPA has discovered in implementing import restrictions under TSCA, Customs does not have the expertise to determine whether or not specific imports contain prohibited substances. Often the importers do not know the identities of substances in their shipments.

Sec. 4

The bill contains no civil or criminal penalty for persons who violate the prohibition on imports.

Careful consideration should be given to the effect of the bill's import prohibition on the General Agreement on Tariffs and Trade (GATT). It is possible that the import control approach would constitute a non-tariff trade barrier, thereby putting the U.S. in violation of the GATT. Specifically, the standards code of the GATT is to avoid technical trade barriers. Unequal treatment of foreign and domestic manufacturers violates this standards code. If importation is prohibited, domestic production also must be prohibited to avoid the appearance of discrimination against imports and prevent international criticism of the bill. The GATT, however, does allow for exemptions when the purpose of the domestic action is to protect health, safety or

the environment, i.e., the domestic environment or health, not that of foreign countries.

EPA knows of only one U.S. company that is involved in importation. Consequently, we expect the financial trade impact to be insignificant.

Sec. 5

This section of the bill apparently is designed to identify imported chemicals and products, besides benzidine and benzidine products, that could be the subject of future legislation. The National Institute for Occupational Safety and Health would be required to report periodically to Congress on imported chemicals or products which are "toxic." This is a very vague provision. Many chemicals are "toxic" in some way. It would be better if this provision were refined to set some degree of toxicity that would trigger concern—such as chronic toxicity as opposed to acute toxicity or particular effects such as cancer or birth defects. EPA already assesses the toxicity of chemicals, including those which are imported.

BOFORS NOBEL, INC.,
Muskegon, MI, June 5, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. DOWLEY: My name is Ralph J. Wolthuis, Vice President of Environmental & Government Affairs, Bofors Nobel, Inc., Muskegon, Michigan, 49443. My business phone is (616) 788-2341.

The following testimony is made on behalf of Bofors Nobel, Inc. as it relates to H.R. 1256 which prohibits the importation into the United States of Benzidine, its salts and Benzidine-based products.

The apparent basis of support for H.R. 1256 is the report published by the Collegium Ramazzini entitled, "Report on Benzidine and its Salts," which advocates no further exposure to Benzidine. The report also refers to 3,3'-dichlorobenzidine (DCB) which may also exhibit potent carcinogenic properties, but it fails to cite any scientific references for that conclusion, nor does it make any specific recommendation.

DCB is vital chemical intermediate for the manufacture of yellow pigments which are used in paints, plastics and printing inks. DCB has been produced and used world-wide for over fifty (50) years, and there is no epidemiological data to show that human exposure has resulted in any carcinogenesis. While there is a similarity in name, DCB and Benzidine are significantly different in their chemical and physical properties and, therefore, must not be considered similar with respect to their health hazards.

It is our opinion that, whatever merit the Collegium Ramazzini report may have with respect to Benzidine, it does not provide any basis for a ban on DCB and related products.

We, therefore, oppose H.R. 1256 as it now is written unless all references to DCB and related products are deleted.

Respectfully submitted,

RALPH J. WOLTHUIS, *Vice President.*

STATEMENT OF ROBERT T. MOFFETT ON BEHALF OF CELANESE CORP.

My name is Robert T. Moffett and I am the Polybenzimidazole (PBI) Business Director for the Celanese Specialty Operations, located at 4000 Barclay Downs Drive, Charlotte, North Carolina 28232. My telephone number is (704) 554-3487.

Celanese Corporation is a diversified producer of chemicals, fibers and specialty products. Celanese is the only free world producer of polybenzimidazole fiber, polymer and other forms. This legislation, H.R. 1256, would eliminate a vital PBI raw material (which is a dichlorobenzidine derivative), and force Celanese to *cease* production of PBI products.

I am here today to express Celanese's concern for H.R. 1256, the "Benzidine Protection and Control Act of 1986" which is pending before the Ways and Means and the Energy and Commerce Committees. This bill would authorize the Secretary of Commerce and Secretary of Treasury to ban imports of 3,3' dichlorobenzidine ("DCB"), benzidine and their major derivatives.

By way of background, PBI was developed in conjunction with NASA and the Air Force to protect astronauts and pilots from fires. PBI fiber is used in many protective clothing applications such as firemen's apparel, welders' garments, high tem-

perature gloves, crash rescue garments, etc. PBI is an important fiber for the replacement of asbestos and is the only available asbestos substitute in certain applications. PBI fiber is presently being evaluated by NASA/Rockwell in the felt used under the tiles on the space shuttle and is being considered for the Sky Lab project.

PBI is an important candidate for the Navy to upgrade shipboard fire protection. PBI is being used extensively to fireproof aircraft seats to meet the FAA regulation to reduce air crash casualties from fire and toxic off-gassing.

PBI is also produced in film, polymer and bead forms which are being considered for numerous military, aerospace, and medical applications. PBI's laser ablative properties have convinced aerospace companies to proceed with laser testing.

The potential in weapons and military applications has resulted in PBI being listed as an "A" classified material on the DOC Commodity Control List for national security purposes. Intelligence and scientific literature indicate that the USSR is experimenting with PBI polymers.

The primary financial impact of closing the Celanese PBI operation is $30 Million/year and 120 jobs. Down stream product impact in the United States is greater than $120 Million/year. PBI safety products also provide numerous U.S. citizens with on and off the job protection from fire and other hazards. It is not possible to assign a value to this important human protection.

The material DCB is also an exclusive raw material for the production of certain yellow, orange and red pigments. These pigments are replacements for "lead" chromate pigments which have been previously banned where human injestion is possible.

These pigment products have a primary economic impact of at least $80 Million/year and several hundred jobs. In addtion, down stream products and services estimated at $200 Million/year are involved.

H.R. 1256 contains several incorrect findings relating to DCB. Specifically, the proposed legislation:

Indicates that the subject benzidine products are no longer produced in the United States. This is incorrect as the material 3,3' DCB is produced in the United States by Bofors Nobel Inc. in Muskegon, Michigan, and by UpJohn Company in North Haven, Connecticut. It is also produced by Hoechst AG in Greisheim, Germany, and by Wakayama Company of Chome Japan.

Notes that production of the subject materials has been shifted to under developed countries, and that thousands of workers are exposed to these deadly carcinogens. For DCB, this is also incorrect. Contrary to many benzidine materials, DCB is only produced in high technology countries. All of the manufacturers use strict industrial hygiene and safety practices which provide employee protection beyond the U.S. (OSHA CFR 1910.1007), Japan and Federation of Germany standards. This employee and environmental protection is provided through a significant investment in safety equipment and training. These investments were made despite the fact that DCB is not a proven human carcinogen.

Describes DCB as being related to benzidine. Despite the fact that DCB contains the name benzidine, it does not contain benzidine and it is not produced from benzidine.

States that the general welfare would *not* be harmed by the enactment of the proposed legislation. This is grossly in error. In fact the ban of DCB and its derivatives would have a large adverse impact on the health, safety, and economic well being of the U.S. This negative effect would significantly outweigh the very remote and unlikely hazards from DCB.

In addition, H.R. 1256 would provide a precedent for banning imports because of possible but not proven worker exposure to human carcinogens. This ban on imports would occur when an identical product is being produced in the U.S. under similar conditions. DCB is an example of a product being produced in the U.S. and Germany and Japan under similar and regulated levels of safety. H.R. 1256 would only ban the foreign products. This restriction on DCB and other imported materials may violate existing international trade agreements.

In summary, DCB is only produced in high technology countries where workers are provided government related levels of protection. With DCB, there are *no* situations of "hazardous working conditions and thousands, perhaps hundreds of thousands, of workers exposed to these deadly carcinogens." A ban on imports of DCB and its derivatives would have a major negative impact on the safety and economic well being of hundreds of American citizens. It's thus, our recommendation that H.R. 1256 be defeated or at least amended to specifically exclude 3,3' dichlorobenzidine and its derivatives from the scope of chemical materials covered.

Thank you.

STATEMENT OF J. LAWRENCE ROBINSON, EXECUTIVE VICE PRESIDENT, DRY COLOR MANUFACTURERS' ASSOCIATION

SUMMARY

Although the primary purpose of H.R. 1256 appears to be to ban the importation of benzidine, the bill also includes several references to 3,3' dichlorobenzidine ("DCB"), a very different chemical intermediate for certain important color pigments, and would appear to authorize the Secretary of Commerce to prohibit the importation of DCB and products based upon DCB. If enacted into law, H.R. 1256 could thus have a significant adverse impact on the color pigments industry in the United States and on the paints, plastics and printing ink industries which rely extensively on color pigments manufactured from DCB.

Those portions of H.R. 1256 which seek to ban imports of DCB are based upon inaccurate findings and do not give adequate consideration to the adverse economic effect which such a ban would have in the United States. The findings contained in H.R. 1256 assume (i) that DCB is no longer produced in the United States or used in the manufacture of other products manufactured in the United States; (ii) that the general welfare would not be harmed by the elimination of DCB and DCB-based products from commerce; and (iii) that DCB presents a significant health risk to workers analogous to that presented by overexposure to benzidine. Each of these findings, however, is erroneous.

DCB is produced in significant quantities in the United States by at least two domestic manufacturers, both of which are members of the Dry Color Manufacturers' Association ("DCMA"). DCMA understands that approximately 7 to 9 million pounds of DCB, worth approximately $29 to $37 million, are consumed in the United States each year for the production of color pigments, over 80% of which are produced in the United States. DCB is an important intermediate, for which there is no substitute, in the manufacturing process of several color pigments. These pigments are manufactured by approximately twenty different manufacturers at pigment plants located thoughout the United States and represent an $80 million business, based on figures available in 1983. These pigments in turn are vital ingredients in many finished products—including paints, plastics and printing inks—which have an estimated value in excess of $200 million per year. In sum, DCB and related color pigments (as well as the paints, plastics and printing inks manufactured from those pigments) cannot be eliminated from commerce without a significant adverse impact on the economy and on the continued employment of the more than 10,000 directly affected workers in those industries.

With respect to the alleged health risks of DCB, it is important to note that despite the similar names, DCB is not produced from and does not contain benzidine. Moreover, years of experience in the United States pigments industry demonstrate that DCB presents little or no risk to workers in the United States. DCB is subject to extensive regulation in the workplace by OSHA. Manufacturers of DCB and related pigments in the United States have had substantial experience in handling DCB safely in the workplace and DCMA is not aware of any OSHA citations issued in recent years concerning DCB. Moreover, public epidemiologic studies of DCB have found no statistically significant incidences of cancer in workers as a result of exposure to DCB.

In view of the potential economic injury of a ban on DCB and the adequate protection already afforded workers exposed to DCB, there is no need to ban the importation of DCB and related products. Moreover, H.R. 1256 has unnecessary trade policy implications because it seeks to ban the importation of DCB and other products which are manufactured in the United States. Accordingly, H.R. 1256 should not be enacted or, in the alternative, H.R. 1256 should be amended to delete from the bill all references to DCB and related products.

DCMA's views on H.R. 1256 are more fully set forth in the attached statement.

DCMA'S VIEWS ON H.R. 1256

The Dry Color Manufacturers' Association ("DCMA") is an industry trade association representing small, medium and large pigment color manufacturers throughout the United States and Canada. DCMA members account for approximately ninety-five percent (95%) of the production of color pigments in this country. DCMA also counts among its membership several foreign pigment manufacturers with pigment sales in the United States and Canada and several domestic and foreign manufacturers of intermediate chemicals used in the production of color pigments in the United States.

DCMA and its members are concerned with the potential effect which H.R. 1256 could have on the color pigments industry in the United States. The bill, known as the Benzidine Protection and Control Act of 1985, was introduced in the House of Representatives on February 25, 1985 and is currently pending before the Committee on Ways and Means and Energy and Commerce. If H.R. 1256 were enacted in its present form, it could result in prohibiting the importation of an intermediate, 3,3' dichlorobenzidine ("DCB"), necessary to the manufacture of an important class of color pigments, known as diarylide pigments, and several other related color pigments classes. In DCMA's view, such a result (i) would be contrary to the primary purposes of the bill; (ii) would inflict significant economic injury on the pigments industry and downstream industries in the United States; (iii) and would not result in the further protection of workers from exposure to DCB either in the United States or throughout the world. In addition, the bill has unnecessary foreign trade implications because it seeks to prohibit the importation of products which are still produced here in the United States.

THE BACKGROUND AND PURPOSES OF H.R. 1256

The stated purposes of H.R. 1256 are to protect workers exposed to "benzidine and benzidine-based products" and to encourage the world community to take steps to eliminate worker exposure to such materials. A prohibition on the importation of benzidine and benzidine-based products would be the primary means by which the bill would achieve its purposes. Under H.R. 1256, the Secretary of Commerce would be authorized to prescribe regulations specifying those "benzidine products" which would be subject to the import prohibition established by the bill. The bill, however, defines a "benzidine product" very broadly to include "any salt of benzidine, any product that contains, or is based upon benzidine, and 3,3' dichlorobenzidine." Although it is not entirely clear from the language of this definition, the Secretary of Commerce may be authorized to ban imports of DCB and products which contain or are based upon DCB if H.R. 1256 were to be enacted. In DCMA's view such a result is not warranted.

DCMA understands that H.R. 1256 was drafted in response to a report published by the Collegium Ramazzini entitled "Report On Benzidine and Its Salts", which recommends an end to all human exposure to benzidine. The Collegium Ramazzini report sets forth a summary of the various health effects studies performed on benzidine. The report also contains a single reference to DCB stating that DCB may also exhibit potent carcinogenic properties. The report, however, cites no scientific basis for its conclusion with respect to DCB and makes no recommendation with respect to DCB. The author of H.R. 1256, however, apparently mistook the Collegium Ramazzini report as providing a sufficient basis for the ban of DCB imports, because relying solely on the report, the author of H.R. 1256 expanded the scope of the bill by including a reference to DCB in the definition of benzidine products.

It is DCMA's opinion that whatever merit the Collegium Ramazzini report may have with respect to benzidine, it simply does not provide any basis for the ban of DCB and products related to DCB. Each of the findings set forth in the report addresses only benzidine. H.R. 1256 simply repeats these findings and sets forth no additional facts which would make those findings accurate with respect to DCB. Yet the bill purports to address both benzidine and DCB; and, as a result the "findings" contained in the bill simply have no basis with respect to DCB. These findings inaccurately assume (i) that DCB is no longer produced in the United States or used in the manufacture of other products manufactured in the United States; (ii) that the general welfare would not be harmed by the elimination of DCB and DCB-based products from commerce; and (iii) that DCB presents a significant health risk to workers analogous to that presented by benzidine. DCMA submits that because each of these findings are inaccurate, as demonstrated below, H.R. 1256 should not be enacted or, in the alternative, the bill should be amended to delete any reference to DCB and related products.

ECONOMIC IMPACT OF DCB AND RELATED PIGMENTS

Contrary to the finding contained in the bill, DCB is produced in significant quantities in the United States by at least two domestic manufacturers, both of which are DCMA members. DCMA understands that approximately seven to nine million pounds of DCB, worth approximately $29 to $37 million, are consumed in the United States each year for the production of color pigments and other products, over 80% of which are manufactured in the United States.

DCB is an important intermediate, for which there is no substitute, in the manufacturing process for several color pigments. The pigments which are manufactured

using DCB are members of two families of pigments known as diarylide pigments and pyrazolone pigments.

The pigments manufactured from DCB are pigments which embrace the yellow, orange and red portions of the spectrum. In each of these pigments, 3,3′ dichlorobenzidine is the primary component which is reacted to form the color with any of a number of couplers. The identity of the coupler determines the shade and other important properties of the pigment formed. Table I identifies the couplers used with 3,3′ dichlorobenzidine to form the diarylide or pyrazolone pigment.

TABLE I

	Coupler
Pigment Yellow 12	Acetoacetanilide.
Pigment Yellow 13	Acetoacet-meta-xylide.
Pigment Yellow 14	Acetoacet-ortho-toluidide.
Pigment Yellow 17	Acetoacet-ortho-anisidide.
Pigment Yellow 55	Acetoacet-para-toluidide.
Pigment Yellow 83	Acetoacet-2,5-dimethoxy-4-chlor-anilide.
Pigment Orange 13	1-Phenyl-3-methyl-5-pyrazolone.
Pigment Orange 34	1-Para-tolyl-3-methyl-5-pyrazolone.
Pigment Red 38	1-Phenyl-3-carboxy-5-pyrazolone ethyl ester.

These pigments are manufactured by approximately twenty (20) different manufacturers at pigment plants located throughout the United States. Sales of those pigments manufactured with DCB in the United States totalled $80,601,000 in 1983. Table II gives data on production pounds, sales pounds and sales dollars of each of the pigments which are produced using DCB and on which data were furnished for 1983 by the United States International Trade Commission.[1]

TABLE II.—1983 U.S. PRODUCTION AND SALES OF PIGMENTS BASED ON 3,3′ DCB

Pigment	Production pounds	Sales pounds	Sales value
Yellow 12	13,327,000	9,092,000	$41,043,000
Yellow 13	462,000	353,000	2,093,000
Yellow 14	3,713,000	3,316,000	14,387,000
Yellow 17	670,000	633,000	3,931,000
Yellow 83	948,000	1,019,000	9,440,000
All other Diarylide Yellow (i.e., Yellow 81, 113, 126)	990,000	1,125,000	6,690,000
Orange 13	112,000	139,000	1,139,000
Orange 34	40,000	43,000	313,000
Red 38	128,000	143,000	1,565,000
Total	20,390,000	15,863,000	80,601,000

These pigments thus make a significant contribution to the health of the U.S. economy and cannot be eliminated from commerce without an adverse effect on the domestic pigments industry.

The effect of a ban on the importation of DCB and related pigments could also have a severe, adverse economic effect on the many downstream industries dependent upon these pigments. These pigments are vital colorant ingredients in the printing ink, plastic, synthetic fiber and paint industries. In turn these basic commodities are essential to their respective user industries. For exemple, printing inks are an

[1] Sales figures and production data for DCB-based pigments used in this position paper were derived from the United States International Trade Commission Publication 1588, Synthetic Organic Chemicals: U.S. Production and Sales, 1983. The ITC collects these data from domestic manufacturers only. Not all data may be legally published; the ITC refrains from publishing data on products manufactured by so few suppliers that the data would reveal confidential details of competitive significance. Thus, DCMA believes that although the ITC data are the most reliable available, its sales and production data may be slightly understated. A copy of "Section V-Organic Pigments" of the ITC publication is attached hereto as Exhibit A.

essential supply to the printing industry. Each of these downstream industries also make significant contributions to the health of our domestic economy.

The printing ink industry provides just one example of the effect which a ban on DCB-related pigments could have upon downstream industries. According to information supplied to DCMA several years ago by the National Association of Printing Ink Manufacturers Incorporated ("NAPIM"), the printing ink industry is composed of 205 companies with 446 manufacturing establishments. In addition, NAPIM estimated that there are approximately 600 commercial ink manufacturing and blending facilities throughout the United States. The pigments which are related to DCB are vital to the operation of the printing ink industry. Not only are these pigments used as "spot" and "solid" colors, but they are also an integral part of color process printing—the method of which color photographs or drawings are reproduced in printed form, such as in newspapers and magazines. Thus, these pigments are used throughout the publication, packaging and commercial printing industries. Without them it would be impossible to perform color process printing with any technology known today.

Practically all of the yellow and orange pigments consumed by the printing ink industry in the manufacture of printing inks are organic pigments related to DCB. NAPIM has estimated that nearly 13% of the dollar value of all printing inks produced by companies in the United States (or more than $133,000,000) contained pigments related to DCB. Other yellow, orange and red pigments do not have the resistance properties or physical characteristics necessary to develop a clear, sharp process printing. There are simply no other substitute pigments available to the ink industry for the formulation of printing inks.

Similarly, pigments related to DCB are vital colorant ingredients in the paint and coatings industry. The outstanding chemical and physical properties of these pigments make substitution for the pigments either very difficult or impossible in most paints and coatings. Because of their bright color and good tinting strength, DCB-related pigments are used in combination with white pigments and other colors to achieve bright shades of yellow. In addition, these pigments have been used in recent years to achieve yellow colors to replace lead chromate pigments in coatings where lead has been restricted by government regulation.

The potential adverse economic effect of H.R. 1256 does not stop at the level of those industries, such as the printing ink and paint industries, which use DCB-related pigments. Rather, it would extend to those industries further downstream, such as the printing industry and the automobile industry, which rely on printing inks and paints manufactured with DCB-related pigments. Although DCMA has not performed the detailed economic analysis required to determine the full extent of the impact on these industries, DCMA believes the effect on the nation's economy could be substantial.

In summary, DCB and related color pigments (as well as the paints, plastics and printing inks manufactured with those pigments) cannot be eliminated from commerce without a significant adverse impact on the economy and on the continued employment of thousands of workers in those industries.

THE HEALTH EFFECTS OF DCB AND RELATED PIGMENTS

By including DCB in the definition of benzidine products, H.R. 1256 implies that DCB is a human carcinogen and imposes risks to man similar to those posed by past overexposure to benzidine. However, any evidence of carcinogenic risk from DCB consists only of animal data and DCB is universally considered a much less potent carcinogen than benzidine. For reference, we have attached as Exhibits B and C a paper from the Journal of Occupational Medicine comparing the potential risks of benzidine and DCB and a list of references on DCB literature. To our knowledge, there have been no studies performed on DCB which indicate that workers exposed to DCB have an incidence of cancer greater than the general populace.

Moreover, because DCB is regulated by OSHA (*see* 29 C.F.R. § 1910.1007), its manufacture and use in the U.S. is restricted to closed systems and to carefully controlled transfer from shipping containers into closed systems, thereby limiting exposure of workers to DCB. Pigments manufacturers usually receive DCB in drums that contain the dihydrochloride salt of DCB in a damp condition which minimizes exposure to dust. Typically, processes are designed such that only entire drum loads are charged into process vessels, thereby minimizing the potential for release of DCB within the workplace environment. To comply with OSHA regulations and otherwise to minimize the potential release of DCB into the workplace environment, charging operations take place under local exhaust conditions that assure that with perhaps minute exceptions, all of the DCB leaving the drum enters the process ves-

sels. The local exhaust systems from the process vessels includes scrubbers or absolute filters through which exhaust air must pass before release to the environment. Monitoring that has been done within the exhaust system (before a scrubber or absolute filter) indicates no detectable quantities of DCB being released into the environment.

For that DCB remaining inside the drum following charging operations, the interior of the drums are first rinsed with water to increase the transfer of DCB into the reaction vessel and the interior and exterior of the drums are then decontaminated by an appropriate agent such as a dilute sodium hypochlorite solution. Industry experience indicates that such decontamination severely limits exposure of its workers to DCB. The decontaminated drums are then generally crushed and sent to an approved landfill or to an approved incinerator.

Once DCB is charged into the process vessels, it is reacted completely to produce a presscake pigment material that is virtually free of unreacted DCB. That minute quantity of DCB which may remain unreacted is tightly occluded on pigment particles and therefore is not available to expose workers in the workplace to DCB.

Pigments manufacturers also take housecleaning precautions against any minute quantities of DCB that may be released into the workplace during charging operations. Workplace surfaces are generally cleaned with solutions of sodium hypochlorite or other decontaminating agents whenever wipe samples taken from the surfaces show detectable quantities of DCB. OSHA has an active enforcement program for monitoring compliance with DCB, and has taken both wipe samples and air samples at many DCB and pigment manufacturing facilities. But, in recent years OSHA has not, to our knowledge, issued any citations against DCB pigment manufacturing facilties for violations of the OSHA DCB standard.

With respect to the health effects of pigments based upon DCB, many studies have been performed on such pigments and no evidence has been found of mutagenci, caricnogenic or teratogenic behavior. We have attached to this position paper as Exhibit D a summary of the results of those studies which have been performed on diarylide pigments.

H.R. 1256 HAS UNNECESSARY TRADE IMPLICATIONS

Because H.R. 1256 seeks to prohibit the importation of DCB and related products—which are manufactured in significant quantities in the U.S.—the bill has trade policy implications. DCMA questions the propriety of attempting to influence the internal policies of other countries by imposing a ban on the importation of certain products when those products are manufactured in this country and without any consideration of the conditions under which those products are manufactured in other countires which have taken responsible actions to protect workers manufacturing such products. Other legislative actions—such as authorizing OSHA to assistance to third world countries in developing worker protection measures based on exposure controls—may be a more appropriate way to achieve the stated goals of H.R. 1256.

CONCLUSION

DCMA submits that there is no need to ban the importation of DCB or related products. In view of the potential economic injury of a ban on DCB and related products and the adequate protection already afforded workers and the environment in the United States from exposure to DCB, H.R. 1256 should not be enacted or, in the alternative, all references to DCB and related products should be deleted from H.R. 1256.

(Attachments to this statement have been retained in the committee files.)

ECOLOGICAL & TOXICOLOGICAL ASSOCIATION OF THE
DYESTUFFS MANUFACTURING INDUSTRY,
June 27, 1985.

Representative SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, Washington, DC.

DEAR MR. CHAIRMAN: These comments are being submitted in opposition to H.R. 1256 by the United States Operating Committee of the Ecological and Toxicological Association of the Dyestuffs Manufacturing Industry ("USOC/ETAD"), a technical organization formed by the dye industry to assess the environmental and human health impact of dyes. The USOC/ETAD membership accounts for approximately

90% of the dye production in the United States.[1] Because the scope of the bill is specifically limited to products based on benzidine and 3,3'-dichloro-benzidine, it does not impinge directly on the commercial interests, with respect to dyes, of the ETAD membership as all major dye manufacturers ceased to manufacture benzidine or benzidine dyes in the early 1970s. 3,3'-Dichlorobenzidine is not a significant intermediate in the manufacture of dyes (although it remains of importance for the manufacture of various organic pigments).

However, we are opposed to prohibiting the importation into the United States of benzidine and its salts because such a ban would be both discriminatoiry and unjustified. At the present time there are no federal restrictions on the manufacture or use of benzidine dyes in the United States. Benzidine itself, a confirmed human carcinogen, can be manufactured and used in the United States so long as the manufacturer complies with the rigorous restrictions on exposure issued by the Occupational, Safety and Health Administration ("OSHA") (19 C.F.R. § 1910.1010). We believe it would be highly discriminatory to ban the importation into the United States of products that can be and in fact are legally manufactured and sold in the United States.

We also believe that a ban on importation is totally unjustified. While benzidine and possibly certain benzidine dyes have hazardous properties, the fact remains that these industrial chemicals can be handled safely. In the absence of information that benzidine and its salts cannot be handled safely in U.S. workplaces we believe there is inadequate justification for banning the importation of these industrial chemicals.

We believe the appropriate approach to dealing with industrial chemicals suspected of posing a risk to human health or the environment is for the manufacturer and users to adopt handling techniques which reduce employee exposure and environmental release to safe levels. Where necessary and appropriate the Environmental Protection Agency and OSHA have adequate authority to issue regulations imposing stringent restrictions upon manufacture and use. Such regulations in fact have been issued in the case of benzidine and there is no evidence that those OSHA regulations are inadequate to prevent an unreasonable risk to human health or the environment.

In conclusion, we believe that it would be highly discriminatory and totally unjustified to ban the importation of either benzidine or benzidine dyes. We would be happy to answer any questions which you or your staff might have on this matter.

Sincerely,

ERIC A. CLARKE, Ph.D.

U.S. OPERATING COMMITTEE (USOC) MEMBER COMPANIES

1. American Hoechst Corporation;
2. Atlantic Industries, Incorporated;
3. BASF Wyandotte Corporation;
4. Carey Industries, Incorporated;
5. Ciba-Geigy Corporation;
6. Crompton & Knowles Corporation;
7. Eastman Chemical Products, Incorporated;
8. ICI Americas, Incorporated;
9. Mobay Chemical Corporation;
10. Morton Thiokol, Incorporated;
11. Sandoz Chemical Corporation.

INDUSTRIAL UNION DEPARTMENT, AFL-CIO,
Washington, DC, June 28, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. DOWLEY: In support of H.R. 1256, introduced by Congressman Don Pease, we enclose documentation for the need to control the import of benzidine and its salts.

The bill is based on a sound ethical principle of public policy: The United States cannot be indifferent to threats to workers' health in the production of goods which we consume. This is true whether the products are produced domestically or in

---

[1] A list of USOC/ETAD member companies is attached as Appendix A.

other countries: Our responsibility to prevent predictable death and disease in the workplace is the same in either case.

For benzidine and its related salts, the record is crystal clear. Benzidine kills; and it kills quite unnecessarily, because economic substitutes are readily available for its use in industrial production.

There is ample documentation in support of H.R. 1256:

Report on Benzidine and its Salts—Collegium Ramazzini, 1984.

Monograph on Benzidine and its Salts—International Agency for Research on Cancer (World Health Organization), vol. 29, 1982.

Monograph on 3, 3' Dichlorobenzidine and its DiHydrochloride—IARC (WHO), vol. 29, 1982.

International Occupational Health Standards: An American Perspective—Howard D. Samuel, *American Journal of Industrial Medicine*, 6:67-73, 1984.

The International Context of Carcinogen Regulation: Benzidine—Sheldon W. Samuels, *Banbury Report 9: Quantification of Occupational Cancer*, 1981.

The bill would implement the repeated recommendations of the international medical-public health-scientific communities, recommendations repeatedly promoted by the World Health Organization and International Labor Office. These are consistent with internal regulatory actions taken by the United States and many other developed industrial trading partners.

Mr. Pease's bill is an innovative means of implementing a national response to these international pleas. There are no substantive economic or scientific issues to complicate our clear-cut ethical obligation to ban the import of benzidine.

In successive forums over eight decades throughout the world, benzidine has been shown to be an economically and technically unnecessary carcinogen. Very little, if any is made in our country. But if it is to be made, it should be manufactured and used under conditions which we ourselves stringently regulate, while not encouraging its production and use where we cannot regulate. The primary emphasis is on regulating ourselves, not others.

The bill is a proposal to alter our own behavior in dealing with industries and governments who would choose to consciously violate human rights of workers in response to our market demands, often in countries that, ironically, accept international protections we now unilaterally extend to certain endangered species of wildlife. The bill would impose the same protections for human life. The proposal supports rights of all workers and implements our obligations to respect those rights. The bill establishes as policy the best instincts of the American people. The bill, furthermore, establishes a method for preventing the direct substitution of one highly carcinogenic substance with another chemical regulated by governments as a carcinogen.

We commend Mr. Pease, and those who have joined him as sponsors, for understanding the importance of this far-sighted humane legislation.

Sincerely,

HOWARD D. SAMUEL, *President.*

(Attachments to this letter have been retained in the committee files.)

H.R. 1262

To equalize the duties on imported tuna, whether or not packed in oil

See statement of American Federation of Labor and Congress of Industrial Organizations under H.R. 821.

U.S. International Trade Commission

Section by-section analysis

H.R. 1262, if enacted, would increase the column 1 [1] and column 2 [2] rates of duty on imports of canned tuna fish, not in oil, to the 35 percent (column 1) and 45 percent (column 2) duty rates applicable to canned tuna, in oil.

The amendments made by this legislation would be effective on or after January 1, 1986.

Background and justification

Description and uses.—The product that is the subject of this legislation is commonly referred to as canned tuna in water. Canned tuna, either domestically produced or imported, which is sold in the United States, may contain only the species of fish designated as tuna by the Food and Drug Administration (FDA). The most common species of tuna used in domestically produced and imported canned tuna are albacore, skipjack, yellowfin, euthynnus, and tongol. Euthynnus (black skipjack) and tongol species of tuna are used only in imported canned tuna from Thailand. Euthynnus is considered a substandard product which demands a discounted price, while tongol is a high-quality tuna that receives a premium price.

As set forth in FDA regulations, canned tuna may be packed in water, olive oil, edible vegetable oils, vegetable broth, or other ingredients, and flavored with sale.[3] It is prepared in the following forms of pack: (1) solid; (2) chunk; (3) flake; or (4) grated. Any of these forms of pack may be smoked.

The color designations for the forms of pack are: (1) white (a color designation limited to albacore, a premium-priced tuna which currently accounts for an estimated 20 percent of domestic production and 12 percent of the imports); (2) light (a color designation which applies to most of the remaining 80 percent of domestic production and 88 percent of the imports); (3) dark; and (4) blended. Canned tuna bearing the color designation dark or blended is relatively unimportant in the U.S. market.

About one-fifth of the U.S. tuna pack is in the solid form, nearly four-fifths is in chunk form, and the remainder (about 1 percent) is in flaked or grated form. Albacore constitutes most of the solid pack tuna, and most albacore is in solid pack. Although data are not available, it is believed that somewhat less than 20 percent of the imported tuna is in solid pack form and virtually all of the remainder is in chunk form.

Tuna is packed in so-called retail-size cans (cans generally having net weights of 3 to 3½ ounces, or of 7 ounces if in solid pack, and 6½ ounces, if chunk) and in institutional-size cans (generally having net weights of 66½ ounces). Although domestic and imported tuna is available in both retail and institutional-size cans, data obtained in investigation No. TA-201-53 (discussed below) indicated that domestic

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the lease developed developing countries (LDDC) rate of duty column.

[2] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnotes 3(f) of the TSUS.

[3] Some tuna is also packed salt-free.

tuna predominates in retail-size cans and imported tuna predominates in institutional-size cans. Imported tuna, virtually all of which is packed in water, is used mostly in the institutional trade (for restaurants, hotels, and so forth), followed by the private-label trade (chainstore brands), and, to some degree, in the highly-prized advertised brand trade (e.g., Star-kist, Empress, Geisha, or Chicken of the Sea). Domestic canned tuna—both in oil and in water—is used mostly in advertised brands, followed by private-label brands, and institutional containers.

According to information submitted at the hearing in connection with investigation No. TA-201-53 (see below), many institutional users of canned tuna prefer the imported product because of its consistent quality, better drained weight (more fish per can after the water is removed), lighter color, and better flavor. In addition, the imported canned tuna was reported to contain only a single species of tuna per can (e.g., tongol, yellowfin, or skipjack), whereas the domestic product was reported to often contain a blend of various species.

Prior investigation.—On February 15, 1984 the U.S. International Trade Commission received a petition filed on behalf of the United States Tuna Foundation, CHB Foods Inc., the American Tuna Boat Association, the United Industrial Workers, AFL-CIO, the Fishermen's Union of America, AFL-CLO, and the Fishermen's Union ILWU, Local No. 33, requesting relief from imports of canned tuna under section 201 of the Trade Act of 1974. The petitioners requested an increase in the column 1 rates of duty for canned tuna, not in oil, to 35 percent ad valorem for 5 years. The Commission instituted investigation No. TA-201-53 (effective February 15, 1984) to determine whether tuna fish in airtight containers, prepared or preserved in any manner, not in oil, provided for in TSUS items 112.30 and 112.34, and tuna fish in airtight containers, prepared or preserved in any manner, in oil, provided for in TSUS item 112.90 were being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

On the basis of the information developed in the course of the investigation, the majority of the Commission determined that the tuna fish subject to the investigation was not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

Sponsor's justification.—Subsequent to the aforementioned investigation, legislation was introduced in the 98th Congress (H.R. 5939) to increase the column 1 rates of duty on canned tuna, not in oil, to 35 percent ad valorem and to increase the column 2 rates of duty to 45 percent ad valorem. That proposed legislation did not become law. The legislation currently proposed represents another attempt to raise the rates of duty on canned tuna, not in oil, to the levels of the rates of duty applicable to canned tuna in oil.

Comparison with present law

Tariff treatment under the TSUS.—The current U.S. rates of duty applicable to imports of tuna in airtight containers (e.g., canned), not in oil, are shown in the following tabulation:

TSUS item No.	Description	Col. 1 rate of duty	Col. 2 rate of duty
	Fish, prepared or preserved in any manner, not in oil, in airtight containers:		
	Tuna:		
112.30	In containers weighing with their contents not over 15 pounds each, and not the product of any insular possession of the United States, for an aggregate quantity entered in any calendar year not to exceed 20% of the United Stated pack of canned tuna during the immediately preceding calendar year, as reported by the National Marine Fisheries Service.	6 percent ad valorem	25 percent ad valorem.
112.34	Other	12.5 percent ad valorem	Do.

Items 112.30 and 112.34 are not subject to staged duty reductions under the Tokyo Round of Multilateral Trade Negotiations. There are no concessionary rates for

LDDCs [4] for imports of tuna under items 112.30 or 112.34. These two items are not eligible items under the Generalized System of Preferences (GSP) [5] or the Caribbean Basin Economic Recovery Act (CBERA).[6]

Historical tariff background.—Tuna canned in oil was originally dutiable at 30 percent ad valorem under the Tariff Act of 1930 as "Fish, prepared or preserved in any manner, if packed in oil or in oil and other substances." In 1934, as the result of a Presidential proclamation under section 336 of the Tariff Act (Equalization of Costs of Production), the rate of duty on such tuna was increased to 45 percent ad valorem. The rate was reduced to 22.5 percent ad valorem in 1943 pursuant to a trade agreement with Mexico, but upon termination of that agreement, in January 1951, the rate reverted to 45 percent ad valorem. Pursuant to a concession (initially negotiated with Japan) in the General Agreement on Tariffs and Trade (GATT), the rate on tuna canned in oil was reduced to 35 percent ad valorem effective September 10, 1955. That rate is the one currently in effect (TSUS item 112.90).

Canned tuna in oil was the principal form in which tuna was imported until the duty was increased in 1951. In that year, imports of tuna not canned in oil (principally tuna in brine, now tuna in water) became of commercial importance for the first time. Within a short period, imports of canned tuna in water constituted virtually all of the imports of canned tuna, and they have remained the predominant type of tuna imported. Such tuna was dutiable at 25 percent ad valorem under the Tariff Act of 1930 as "Fish, prepared or preserved in any manner, if in airtight containers weighing with their contents not more than 15 pounds each (except fish packed in oil or in oil and other substances)." The rate on this tuna, i.e., canned tuna, not in oil, was reduced to 12.5 percent ad valorem pursuant to a trade agreement with Iceland effective November 1943.[7] A concession on this product was included in the GATT, effective September 10, 1955, in negotiations with Japan, whereby the ad valorem duty rate of 12.5 percent was bound against increase. Also, a reservation, made a part of this concession, included limiting the reduced rate of imports in any calendar year not in excess of 20 percent of the U.S. pack of canned tuna during the immediately preceding calendar year, as reported by the Fish and Wildlife Service (now the National Marine Fisheries Service). Effective April 14, 1956, the concession on canned tuna, not in oil, was withdrawn from the agreement with Iceland, but the 1955 GATT concession negotiated with Japan remained in effect. Thus, imports not in excess of 20 percent of the preceding year's U.S. pack (i.e., those under the "tariff-rate quota") became dutiable by Presidential proclamation at the concession rate of 12.5 percent ad valorem, and those in excess of that quantity (i.e., those over the "tariff-rate quota") became dutiable at the statutory rate of 25 percent ad valorem.

As a result of concessions granted by the United States in the sixth round of trade negotiations under the GATT (the Kennedy round), the duty rate of 12.5 percent ad valorem on imports of canned tuna not in excess of 20 percent of the preceding year's U.S. pack (the "within quota" tuna, which is now classified under TSUS item 112.30) was reduced in five annual stages to 6 percent ad valorem. At the same time, the rate of duty on such imports in excess of 20 percent of the pack (the "over quota" tuna, which is now classified under TSUS item 112.34) was reduced to 12.5

---

[4] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column 1 applies.

[5] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[6] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 9184; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Caribbean Basin countries.

[7] The rate of duty of 12.5 percent ad valorem was initially negotiated under a GATT concession with the Republic of China (Taiwan) effective May 22, 1948. This concession was withdrawn, effective Jan. 26, 1952, after the withdrawal of Taiwan as a contracting party to the GATT. The 12.5 percent rate continued in effect, however, by reason of the agreement with Iceland.

percent ad valorem. These rates of duty became effective January 1, 1972, and they currently remain in effect.

Tariff treatment under the proposed Harmonized System (HS).—The tariff classifications for the subject products under the proposed HS are shown in the tabulation on the following page.

HS commodity code number and index	Product description	Units of quantity	Col. 1 (general) rate of duty [1]
	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs:		
	Fish, whole or in pieces, not minced:		
1604.14	Tunas, skipjack, and Atlantic bonito (Sarda spp.):		
	Tunas and skipjack:		
	In airtight containers:		
	Not in oil:		
1604.14.20	In containers weighing with their contents not over 7 kg each, and not the product of any insular possession of the United States, for an aggregate quantity entered in any calendar year not to exceed 20 percent of the United States pack of canned tuna during the immediately preceding year, as reported by the National Marine Fisheries Service.	Kg	6 percent.
—20	Albacore	Kg	
—40	Other	Kg	
1604.14.30—00	Other	Kg	12.5 percent.

[1] To be effective upon implementation of the H.S.

Structure of the domestic industry

The domestic industry consists of the U.S. tuna fishing fleet and the U.S. processors of canned tuna. The U.S. fishing fleet consists of about 109 purse seine vessels (large, well-equipped oceangoing ships, often valued at $10 million to $12 million each, which sail the fishing grounds of the high seas in search of tuna) and 600 baitboats (pole, line, and live bait vessels) that fish mostly off the coast of California. About 97 percent of the U.S. catch of raw tuna is landed by the purse seine fleet. Data are not available on the sales of raw tuna by the largest vessels in the fleet. However, part of the purse seine fleet is tied to the U.S. processors of tuna via outright or partial ownership, loan guarantees and/or advance trip expense. Virtually all of the fishing fleet's catch of raw tuna is sold to processors.

Six processors account for virtaully all of the U.S. production of canned tuna. Their names and the locations of their U.S. processing plants are as follows:

Firm	Location of U.S. processing plants
(1) Star-Kist Foods, Inc. (Star-Kist); Terminal Island, CA, (a subsidiary of H.J. Heinz, Co., Pittsburgh, PA).	(a) Mayaques, PR. (b) Pago Pago, American Samoa.
(2) Van Camp Seafood Division (Van Camp); Ralston Purina Co., St. Louis, MO.	(a) Pago Pago, American Samoa. (b) Ponce, PR.
(3) Bumble Bee Seafoods Division (Bumble Bee); San Diego, CA, (a division of Castle & Cook, Inc., San Francisco, CA.	(a) Mayaguez, PR.
(4) C.H.B. Foods-Pan Pacific Fisheries (C.H.B.); Terminal Island, CA	(a) Terminal Island, CA.
(5) Neptune Packing Corp. (Neptune); White Plans, NY (A subsidiary of Mitsui (U.S.A.), New York, NY.	(a) Mayaguez, PR.
(6) Mitsubishi Foods Inc. (Mitsubishi); Delmar, CA (a subsidiary of Mitsubishi Corp., Tokyo, Japan).	(a) Ponce, PR.

Star-Kist, Van Camp, and Bumble-Bee are the largest U.S. processors of canned tuna fish. Star-Kist and its parent own tuna-processing plants in Peru, France, Ghana, Canada, and Australia. Some of the U.S. processors also import canned tuna.

During 1979–83, the average number of workers employed in U.S. establishments in which canned tuna was produced ranged from 16,498 persons in 1980 to 14,749 persons in 1983; data are not available on employment in 1984.

Domestic production

During 1980–83, domestic production of canned tuna fish ranged from 640 million pounds (1980) to 626 million pounds (1983). In 1984, production amounted to 614 million pounds (table 1).

U.S. imports

During 1980–84, U.S. imports of canned tuna fish increased from 63 million pounds to 162 million pounds, or 157 percent (table 2). Virtually all of the imports of canned tuna are packed in water because of the relatively high rate of duty (35 percent ad valorem) on canned tuna packed in oil. Thailand, Japan, Taiwan, and the Philippines have accounted for 90 percent, or more, of the imports in recent years. Imports from column 2 sources have been negligible or nil.

Among the largest importers of canned tuna are Atlanta Corporation, 19–25 Varick Street, New York, New York 10013; Connell Foods, Inc., 45 Cardinal Drive, Westfield, New Jersey 07092; Camerican International, Inc., P.O. Box 216, Teaneck, New Jersey 07666; SCC International Inc., 4017 Hackensack Avenue, Hackensack, New Jersey 07602; Nozaki American, Inc., 1 WTC Ste 3441, New York, New York 10048; Lankor International, 66 Broad Street, Carlstadt, New Jersey 07072; Sinco, Inc., 750 Pleasant Street, Belmont, Massachusetts 02178; Deco Plants Company, Division of Ralston Purina, 3968 NW. 57th Avenue, Miami, Florida 33166; Lissco Food, Inc., 170 Broadway, New York, New York 10038; West Overseas Trade and Development Corporation, 1210–CN Jefferson Street, Anaheim, California 92807; Island Sun Company, Inc., 100 Bush Street, San Francisco, California 94104; G.I.C. America, Inc., 601 Montgomery Street, Suite 2021, San Francisco, California 94111; S.E. Rykoff & Company, 2650 Bayshore Boulevard, Daly City, California 90021; John Sexton & Company, 222 South Riverside Plaza, Chicago, Illinois 60606; and King Tuna Trading Company, 5339 Lindley Avenue, Tarzana, California 91356.

U.S. exports

U.S. exports of canned tuna fish account for only a small share of production. Precise data on exports and the names and locations of the principal exporters reflect business confidential information. Therefore, these data are not included in this report.

Apparent U.S. consumption

During 1980–84, apparent U.S. consumption of canned tuna fish showed an upward trend, and ranged from a low of 656 million pounds in 1982 to a high of 776 million pounds in 1984 (table 1). The share of consumption supplied by imports increased from 9 percent to 20 percent during the period.

Effect on revenue

Enactment of this legislation would increase annual revenue by about $43 million, based on the dutiable value of imports the most recent calendar year.

GATT considerations

The present rate of duty on canned tuna fish, not in oil has been bound under Article II of the General Agreement on Tariffs and Trade (GATT). Therefore, since this legislation increases the duties above the agreed level, the United States could be subject to claims by affected contracting parties for compensatory concessions, or to retaliatory withdrawal of benefits previously granted to the United States.

Technical comments

The effective date of the bill should be changed to January 1, 1986.

TABLE 1.—CANNED TUNA FISH: U.S. PRODUCTION, IMPORTS FOR CONSUMPTION, AND APPARENT CONSUMPTION, 1980–84

[In thousands of pounds]

Year	Production	Imports [1]	Apparent consumption [2]	Ratio of imports to consumption (percent)
1980	639,900	63,107	703,007	8.9
1981	649,019	70,583	719,602	9.8
1982	568,651	87,365	656,016	13.3
1983	625,569	122,132	747,701	16.3
1984	614,000	162,035	776,135	20.8

[1] Imports consist of canned tuna fish, not in oil. Such imports account for 98 percent, or more, of the total imports of canned tuna fish.
[2] Exports account for only a small share of production. Precise data on exports reflect business confidential information and, hence, are not included.

Source: Production for 1980–83 compiled from information submitted in response to questionnaires of the U.S. International Trade Commission; production for 1984 compiled from official data of the National Marine Fisheries Service, U.S. Department of Commerce. Imports compiled from official data of the U.S. Department of Commerce.

TABLE 2.—CANNED TUNA, NOT IN OIL: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Thailnd	6,405	10,315	18,652	29,930	89,685
Japan	24,794	21,271	26,473	20,387	26,855
China t	15,947	15,765	10,704	18,707	17,934
Phil R	13,777	21,451	27,630	32,018	22,225
Indnsia	0	146	595	2,634	2,222
Malaysa	66	696	755	3,083	1,608
Ecuador	0	0	0	0	890
Hg Kong	91	67	70	32	243
Kor Rep	127	31	49	68	82
Portugl	25	23	9	0	40
All other	1,877	818	2,428	5,274	250
Total	63,107	70,583	87,365	122,132	162,035
	Value (1,000 dollars)				
Thailnd	8,875	15,400	22,691	63,259	89,253
Japan	42,015	36,452	38,547	24,643	29,185
China t	23,316	24,620	16,366	22,767	22,473
Phil R	20,043	30,504	31,082	32,291	20,396
Indnsia		209	699	2,679	2,102
Malaysa	76	1,230	1,242	4,068	1,893
Ecuador					837
Hg Kong	115	96	71	33	223
Kor Rep	189	58	79	69	75
Portugl	35	42	14		63
All other	2,022	1,171	4,062	7,097	276
Total	96,685	109,783	112,853	136,906	166,776
	Unit value (per pound)				
Thailnd	$1.39	$1.49	$1.22	$1.08	$1.00
Japan	1.69	1.71	1.46	1.21	1.09
China t	1.46	1.56	1.34	1.22	1.25
Phil R	1.45	1.42	1.12	1.01	0.92
Indnsia		1.43	1.18	1.02	0.95
Malaysa	1.14	1.77	1.64	1.32	1.18
Ecuador					0.94

TABLE 2.—CANNED TUNA, NOT IN OIL: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84—Continued

Source	1980	1981	1982	1983	1984
Hg Kong	1.27	1.44	1.02	1.02	0.92
Kor Rep	1.48	1.86	1.63	1.02	0.91
Portugl	1.40	1.82	1.46		1.57
All other	1.08	1.43	1.67	1.35	1.11
Average	1.53	1.56	1.29	1.12	1.03

Source: Compiled from official statistics of the U.S. Department of Commerce.

U.S. DEPARTMENT OF COMMERCE
Washington, DC, June 20, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on H.R. 1262, a bill

"To equalize the duties on imported tuna, whether or not packed in oil."

The Department opposes enactment of H.R. 1262.

H.R. 1262 would increase the duty on tuna packed in water to 35 percent ad valorem, the duty currently applicable to tuna packed in oil.

Tuna packed in water currently enters the United States under Tariff Schedules of the United States (TSUS) Items 112.30 and 112.34. Item 112.30 consists of tuna not exceeding "20 percent of the United States pack of canned tuna during the immediately preceding calendar year, as reported by the National Marine Fisheries Service," and is dutiable at the Column 1 rate of 6 percent ad valorem. Item 112.34 consists of tuna in excess of the 20 percent limitation and is dutiable at 12.5 percent ad valorem. Tuna packed in oil enters the United States under TSUS Item 112.90, with a Column 1 tariff of 35 percent. The Column 2 rates of duty on these items would not be affected by this legislation.

Congress has provided, in section 201 of the Trade Act of 1974, for procedures under which domestic industries that believe they have been injured or threatened with injury by rising imports may petition the United States International Trade Commission (USITC) for relief. A recommendation by the USITC that relief be granted under section 201 must be based upon a finding of serious injury or threat thereof to the affected industry, and is thus consistent with United States international obligations under the General Agreement on Tariffs and Trade (GATT). The GATT requires a finding of injury to a domestic industry before import restrictions can be imposed.

In July 1984, the USITC denied a petition filed by the domestic tuna industry under section 201, on the grounds that rising imports were not a substantial cause of injury to the industry. Enactment of H.R. 1262 would thus have the effect of circumventing the procedures for which the Congress has provided, and the conclusions of the USITC in this instance. Further, because H.R. 1262 does not contain a requirement that injury be established, its enactment would be inconsistent with our GATT obligations, and could result in requests by our trading partners for compensation, or in retaliatory action against the United States.

Unilateral tariff increases are contrary to U.S. trade policy objectives. Such measures undermine our efforts to prevent similar actions by other countries, and are contrary to this Administration's commitment to avoid protectionist measures and reduce existing barriers to trade. In addition, tariff increases of this nature result in increased costs to consumers.

Had H.R. 1262 been in effect during 1984, it would have resulted in revenue increases of approximately $44 million. Enactment of H.R. 1262 would have no effect on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS,
General Counsel.

BUMBLE BEE SEAFOODS, INC.,
San Diego, CA, June 20, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. DOWLEY: I am Patrick W. Rose, President, Bumble Bee Seafoods, Inc., P.O. Box X-1017, San Diego, CA 92112 (Tel. (619) 235-0160). This submission is made on my own behalf and that of Bumble Bee Seafoods, Inc.

Bumble Bee Seafoods, Inc. does not support the intent of H.R. 1262 to equalize the duties on imported tuna, whether or not packed in oil. We would like to comment in detail if any public hearings are scheduled on this bill but provide the following outline of our comments supporting a recommendation not to enact this bill into law:

I. The U.S. tuna industry does not support such legislation uniformly; rather it is divided as to opinion on protectionist legislation as an aid to the industry.

II. Some segments of the U.S. tuna industry are healthy while other are experiencing severe financial difficulty.

III. Imports are neither the sole nor the dominant cause of financial hardship in certain segments of the industry.

IV. The suggested tariff relief is not likely to aid the segment of the industry experiencing financial difficulty but rather will aid only certain firms by reducing both trade and competition.

V. The suggested tariffs are contrary to broader national and international policy objectives of the United States to promote fair trade, international economic development and political and social progress.

Thank you for considering our views on this bill.

Very truly yours,

PATRICK W. ROSE,
President and Chief Executive Officer.

FISHERMEN'S COOPERATIVE ASSOCIATION OF SAN PEDRO,
San Pedro, CA, June 20, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. DOWLEY: I am writing in behalf of the 30 fishing boatowners who are members of this 68 year old marketing cooperative. Association members pioneered the tuna fishing industry which has based in Los Angeles Harbor. Our fleet has been greatly reduced over the years; however, we land about 10,000 tons of tuna annually. These fish are caught off the coast of Mexico and in local waters.

RECOMMENDATION

That the Committee gave its full support to the passage of H.R. 1262 as introduced by Congressman Glenn M. Anderson.

CONSIDERATIONS

The current imbalance in the tuna tariff has impacted our fleet of small tunaboats most drastically. The large superseiners out of San Diego have the capacity and range to deliver tuna to Puerto Rico and American Samoa processing plants. It is impossible for San Pedro-based tunaboats to make these long distance voyages. Our boats are wholly dependent on facilities based on the West Coast.

When Star-Kist closed its tuna plant in October of 1984, five of our boats were forced to discontinue fishing and were in effect "out of business". The cause of the Star-Kist closure is directly related to the tariff.

The Star-Kist closure also effected 20 additional vessels who catch tuna and albacore in local waters. Last Fall, these boatowners were obliged to absorb the cost of

transhipping their tuna/albacore catches to Puerto Rico and thereby saw their meager earnings cut by 40%

Again, the demise of the U.S. tuna fishing industry is directly attributable to the harm produced by unrestricted imports of tuna packed in water. We urge the Committee to recognize the problem and to vote to preserve the livelihood of our members and the 320 crewmembers who work aboard our boats.

We would appreciate the unanimous vote of the Committee.

Sincerely,

LAWRENCE A. BOZANICH,
General Manager.

MARITIME TRADES DEPARTMENT, AFL–CIO,
Washington, DC, June 28, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade,
House Ways and Means Committee, Washington, DC.

DEAR MR. CHAIRMAN: The Maritime Trades Department, AFL–CIO, representing 43 national and international unions composed of 8½ million workers would like to express its support for H.R. 1262, legislation to equalize the duties on imported tuna, whether or not packed in water. Enactment of this remedial legislation would neutralize an existing tariff structure which has substantially facilitated import penetration into the U.S. market for canned tuna packed in water.

As you know, water-packed tuna imported into the United States is assessed a duty of six percent while tuna packed in oil is dutiable at 35 percent, even though these two products compete directly against each other in the marketplace. The fishing industries of foreign countries, which are already able to drastically undercut U.S. tuna prices because of subsidies and low-wage labor, are taking advantage of the low six percent tariff rate for water-packed tuna and are increasing their exports of this product to the United States at an alarming rate. As a result, our foreign competitors have been able to make significant inroads into U.S. markets, placing domestic canneries and the fishing fleet at a severe domestic disadvantage. The disparate tariff structure, therefore, has had a ruinous effect on the domestic tuna industry and is, in our view, the primary reason for the substantial decline of a once-thriving industry.

It is unconscionable that the U.S. tuna industry is virtually in ruins because of an unintended anomaly in the law. The low tariff for water-packed tuna begs foreign competition and encourages other nations to dump quantities of low-priced tuna in U.S. markets. The competition with these foreign countries is even stiffer when our competitors' use of low-wage foreign labor is taken into consideration.

American workers in the tuna industry have been impacted severely by the dumping of foreign water-packed tuna in U.S. markets. Several cannery and production plants have been forced to close completely or lay off workers until only skeletal staffs remain. Moreover, although their wages are not very high in relation to wages in other U.S. industries, these workers have already made meaningful sacrifices and concessions, in order to improve the competitive posture of U.S. canneries. Wages have been frozen in most canneries since 1982, meaning that workers have not even been able to keep up with inflation. Insurance benefits have been cut back drastically in order to help employers cope with the nationwide rising costs of providing health care benefits to employees. Additionally, workers have taken courses of action to improve productivity in the canneries. The industry as a whole has invested millions of dollars in technologically advanced equipment to improve the harvesting and processing of tuna and in state-of-the-art machinery to increase yields and lower costs.

It is our firm belief that the U.S. tuna industry and the workers it employs have done their fair share to strengthen the industry vis-a-vis its foreign counterparts. However, the decline continues. It is very clear that the only remaining logical, workable and equitable mechanism to save the U.S. tuna industry is for the government to take immediate action to establish parity in the tariff rate for tuna packed in water with that of tuna packed in oil.

Early last year, the industry sought redress from this disparate duty structure in a petition filed with the United States International Trade Commission (ITC) under Section 201(b) of the Trade Act of 1974, designed to help domestic industries adjust to injurious foreign imports. To the dismay of the industry, a negative determination, which recommended that the President deny import relief, was handed down by the ITC in August 1984.

If the domestic tuna industry is to survive, we believe that Congressional action is urgently needed to rectify this inequitable tariff rate structure. We, therefore, respectfully request your support for H.R. 1262, legislation which would equalize the tariff on all imported canned tuna. Enactment of this legislation is crucial for it will afford the domestic tuna industry an opportunity to compete effectively against highly subsidized foreign counterparts and prevent further financial losses and unprecedented unemployment in this industry.

Your attention and positive response to this important matter will assist in restoring the viability of the domestic tuna industry.

Sincerely yours,

FRANK DROZAK, *President.*

PACIFIC MARINE FISHERIES COMMISSION,
Portland, OR, June 11, 1985.

Hon. SAMUEL M. GIBBONS,
Chairman, Subcommittee on Trade of the Ways and Means Committee, Washington, DC.

DEAR CONGRESSMAN GIBBONS: This responds to your request for written comments on tariff bills. We seek your assistance in achieving a uniform tariff on all imported canned tuna as proposed in H.R. 1262 introduced by Congressman Anderson. While imported tuna packed in oil is assessed a 35% ad valorem duty, the rate for tuna not in oil is only 6%. Imports of tuna not in oil have increased dramatically as a result, with devastating impacts on the U.S. tuna industry.

In the last six years, the number of tuna canneries has declined from 6 to 1. This has severely impacted the domestic fishing fleet by loss of markets for tuna as well as other fish that were processed by these canneries. The annual loss to the economy of the region is considerable. We are conducting a comprehensive analysis of the economic impact of losing the tuna fishery and will send you the results as soon as they become available. We also have prepared the attached paper which documents some of the impacts of this inconsistent tariff policy. We support legislation which would establish tariffs on tuna not in oil which are equal to the existing tariffs on tuna in oil.

Thank you for our assistance in this matter.

Sincerely,

LAWRENCE D. SIX, *Executive Director.*

TROUBLE IN THE TUNA INDUSTRY

The fishing and processing sectors of the U.S. tuna industry have been severely affected by sharp increases in low-priced imported canned tuna in recent years. This report reviews the history of tariff protection for canned tuna, the effect of tariff changes on imports, the effect of imports on the U.S. tuna industry, and speaks to the need for increased tariff protection.

Tariff History of Canned Tuna

The purpose of this section is to review the levels of tariff protection that have been enacted since duties were first imposed, illustrate how variable the protection has been over time, and show how the protection has been eroded to the level that exists today.

Canned tuna is subject to two separate and distinct tariffs. One is for tuna canned in oil and the other is for canned tuna, not in oil. While these have been separate issues in the history of tariff development, their impacts have been tightly interrelated with the economics of the U.S. tuna industry and are discussed together in the following history.

The Tariff Act of 1930 established the first duty rates on canned tuna. Tuna canned in oil carried a 30% ad valorem duty, while canned fish, not in oil, carried a 25% ad valorem duty. Some species were excepted from this 25% duty rate under the Act, but not tuna. In 1934, the U.S. increased the ad valorem duty to 45% for canned tuna in oil because imports had increased from zero to 31% of the market in 3 years. Nine years later, in 1943, the U.S. lowered its protection for domestic tuna canned in oil by dropping the duty rate from 45% to 22.5% as the result of a trade agreement with Mexico. In the same year a trade agreement with Iceland resulted in a duty rate reduction of imported canned fish products, not in oil, from 25% to 12.5%. This included tuna, but at that time all imported tuna was still being canned in oil.

In 1947 the U.S. was the leader in the formation of the General Agreement on Tariffs and Trade (GATT), a multinational body to reduce trade barriers. Agreements on trade concessions with one nation were available to all contracting parties participating in GATT. In 1948 the duty rate for canned fish products, not in oil, was guaranteed against increase under GATT as the result of negotiations with Nationalist China. This still had no bearing on tuna at that time since practically all tuna was being canned in oil.

In the summer of 1950 Mexico withdrew from the 1943 Trade Agreement with the U.S. and the 22.5% duty rate on tuna canned in oil reverted back to the old rate of 45% as of January 1951. In 1952 Nationalist China withdrew from GATT, removing the guarantee on not increasing the 12.5% duty for canned tuna, not in oil. However, the 12.5% duty rate remained in effect because of the 1943 trade agreement with Iceland.

In negotiations with Japan under GATT in 1955, the duty rate on imported tuna canned in oil was reduced from 45% to 35%. On canned tuna, not in oil, the 12.5% duty rate was once again guaranteed against increase up to the point

where the imports exceeded 20% of the previous year's U.S. canned tuna pack. Whenever imports of canned tuna, not in oil, exceeded the 20% level the duty rate was increased to 25%. These actions under GATT became effective in 1956.

Subsequent to GATT negotiations with Japan in 1962-63 and again in 1967, the 12.5% duty rate on canned tuna, not in oil, was gradually reduced to 6% over a 5-year period beginning in 1968. The duty rate when imports exceeded 20% of the prior year's U.S. pack was reduced from 25% to 12.5%. These rates are currently in effect as well as the 35% duty rate for the imported tuna canned in oil.

Summary: Tariff History of Canned Tuna

The duty rate of 30% for imported tuna canned in oil established by the Tariff Act of 1930 was increased to 45% in 1934 to afford more protection for the tuna industry. The rate was cut to 22.5% in 1943 as a result of a trade agreement with Mexico and then reinstated at 45% in 1951 when Mexico terminated the treaty. In 1956 the duty rate for tuna canned in oil was lowered to 35% where it stands today.

In regard to tariff protection, the present rate is of little consequence since almost all tuna now imported is not canned in oil. Early duty rates which might have been applied to tuna not canned in oil were of no consequence because there were no imports canned in that manner at that time. The first duty rate established in 1930 was 25%. This was reduced to 12.5% in 1943. The first meaningful imports of tuna not canned in oil occurred in 1951. In 1956 a tariff quota was established, setting a 25% duty rate when imports of tuna not canned in oil exceeded 20% of the previous year's U.S. pack. In 1968 as a result of negotiations with the Japanese, the 12.5% below quota duty and the 25% above quota duty were gradually reduced to 6% and 12.5% respectively once a 5-year period ending in 1972. These rates are presently in effect.

A review of the sequence of duty rate changes is shown in the following table.

Table 1

Tariff Rate Changes for Canned Tuna Imports

Processing	Year					
Method	1930	1934	1943	1951	1956	1968-72
In Oil	30%	45%	22.5%	45%	35%	
Not in Oil	25%		12.5%		12.5%/25%	6%/12.5%

Effect of Tariff Changes on Imports

This section reviews the effect of tariff changes on canned tuna imports and demonstrates the growing level of these imports as the result of the changes.

Wwhen the Tariff Act of 1930 set a 30% ad valorem duty rate on imported tuna canned in oil and a 25% ad valorem duty rate on imported canned fish, not in oil, tuna was not an item of concern. Beginning in 1931, the Japanese exported about 650,000 pounds of tuna canned in oil to the U.S., but this was still an insignificant amount compared to domestic production. However by 1933, imports of tuna increased to over 14 million pounds and amounted to a 31% share of the market. This resulted in action by the U.S. to increase the duty rate to 45% in 1934. With the 45% duty rate in effect, imports declined to 8.3 million pounds in 1934 and averaged about 8.5 million pounds for the next 7 years prior to World War II.

With the advent of the war, imports and domestic production of tuna declined. In 1943, a reduction in duty rate for canned tuna in oil to 22.5% (as the result of the trade agreement with Mexico) and a reduction in duty rate to 12.5% for canned tuna, not in oil (as the result of the trade agreement with Iceland), had no effect on imports because of the war and because tuna, not in oil, was as yet not a factor in world trade. However, by 1948 imports of canned tuna in oil reached 8.3 million pounds, near the prewar average. In that year Japan resumed exports of canned tuna in oil and shipped 645,000 pounds to the U.S. In 1949 it increased exports of canned tuna in oil to 1.8 million pounds and also in that year Japan, Peru, Chile, and other countries exported a total of about 80,000 pounds of canned tuna, not in oil, at a duty rate of 12.5%. This was the start of what would turn out to be a most important problem for the tuna industry.

One of the most striking examples of tariff changes on tuna imports occurred in mid-1950 when Mexico denounced its 1943 Trade Agreement with the U.S. One result of this action by Mexico was to change the duty rate for tuna canned in oil back to 45% where it was prior to January 1943. The change became effective in January 1951. However, to avoid the impending higher duty rate, in the 6-month period before the change, over 27 million pounds of tuna canned in oil were imported (mostly from Japan). The total for the year was 36.5 million pounds which was over 2.5 times the total of the highest previous year and over 4 times the prewar annual average.

With the duty rate back to 45% in 1951, imports of canned tuna in oil dropped to 3.6 million pounds and have never been a significant import item since. Imports for the past 20 years have only averaged around 300,000 pounds annually. However, canned tuna, not in oil, with a duty rate of 12.5%, quickly filled the void. From a level of only 381,000 pounds in 1950, imports of canned tuna, not in oil, rose to 9.4 million pounds in 1951, and by 1955 had reached 34.7 million pounds.

There was apparently little effect on imports of canned tuna, not in oil, from the tariff quota that was established in 1956, since imports rose to 37.6 million pounds in that year and 43.3 million pounds in the following year. There was also apparently little effect on imports of canned tuna in oil when the duty rate for this product was changed from 45% to 35% in 1956.

During the 5-year period from 1968 to 1972, imports of canned tuna, not in oil, reached record highs for that time. Both in 1969 and 1970 imports exceeded 72 million pounds. It was during this 5-year period that the duty rate was gradually reduced from 12.5% to 6% for imports below the tariff quota, and from 25% to 12.5% when imports exceeded the quota. However, even without this reduced duty rate, the imports of canned tuna, not in oil, had been increasing steadily. From 1950 to 1956, with the 12.5% duty rate in effect, imports increased from 0.4 million pounds to 37.6 million pounds. From 1956 to 1967, with the tariff quota raising the duty rate when the quota was exceeded, imports still rose from 37.6 to 65 million pounds.

After reaching a high of nearly 73 million pounds in 1969, imports of canned tuna, not in oil, declined to an average of around 52 million pounds in the 1970's, but began a strong resurgence in 1980 moving up to 63 million pounds. In 1981 they increased to 70.5 million pounds and then surged to 87 million in 1982 and 122 million in 1983. Preliminary information indicates that, by 1984, imports of canned tuna, not in oil, had reached nearly 164 million pounds. Of this total, 74 million pounds were over the quota and imported at a duty rate of 12.5%. Inasmuch as the 74 million pounds by which the quota was exceeded is greater than any year's total imports prior to 1982, one can only wonder about the protective benefits of the quota at such a low duty rate.

Summary: Effect of Tariff Changes on Imports

The duty rate of 30% on imported tuna, canned in oil, established in 1930 allowed imports to capture 31% of the U.S. market by 1933. The increase in duty rate to 45% in 1934 stabilized imports at about 8.5 million pounds until World War II when imports as well as domestic catches were much reduced. Changes in duty rate in 1943 for tuna canned in oil from 45% to 22.5%, and for canned tuna, not in oil, from 25% to 12.5%, had no immediate effect on imports because of the war and because canned tuna, not in oil, was not an import item at that time. However, by 1948, imports of tuna canned in oil had reached prewar levels. In 1950, with the duty rate for tuna canned in oil scheduled to increase to 45% in 1951, the imports shot up to 36.5 million pounds to avoid the impending higher duty. In 1951, imports of tuna canned in oil dropped by 90%, but canned tuna, not in oil, began its climb and increased to 9.4 million pounds from 0.4 million pounds the previous year. A tariff quota established in 1956, whereby the duty rate increased from 12.5% to 25% when imports exceeded 20% of the previous year's U.S. pack, did not reverse the increasing trend of imports of canned tuna, not in oil. Beginning in 1968 and extending through 1972, the duty rate for canned tuna, not in oil, was gradually reduced from 12.5% to 6% when imports were below the quota, and from 25% to 12.5% when above the quota. This change appeared to have no immediate effect, but in the long term, with these rates still in effect, imports have continued to increase. In recent years the increase has been dramatic. For 1984, preliminary information indicates imports of canned tuna, not in oil, reached nearly 164 million pounds, of which 74 million pounds exceeded the quota and was imported at the 12.5% duty rate.

Effect of Imports on U.S. Tuna Industry

As was mentioned in the previous section, the past few years have seen a great acceleration in the importing of low-priced canned tuna, not in oil. In 1977, which was a low year for imports, foreign canned tuna amounted to only 6.4% of the U.S. production. By 1979, imports as percentage of U.S. production rose to 8.5%. In 1982, the percentage was over 16% and by 1984 imports amounted to over 26% of U.S. production.

In order to compete with these lower priced canned imports, U.S. canners have had to reduce prices paid to U.S. fishermen for raw tuna. Comparative prices for standard grade yellowfin and skipjack tuna, the two principal species used for canning, are given for two separate periods, 1979-81 and May 1984, in the following table.

Table 2

Short Ton Price Differences of Standard Grade Raw Tuna

for Two Periods, 1979-81 and May 1984

	Period		$ Reduction	
Species and Size	1979-81	May 1984	Low Range	High Range
YELLOWFIN				
7-1/2 lbs and up	$840-$1,200	$840-$1,085	0	$115
Under 7-1/2 lbs	$700-$1,100	$250-$ 730	$450	$370
SKIPJACK				
4 lbs and up	$740-$1,100	$650-$ 830	$ 90	$270
3 to 4 lbs	$590-$1,000	$420-$ 500	$170	$500
Under 3 lbs	$400-$ 800	$250	$150	$550

Comparing the average of the midpoints in the price ranges for each species separately in the two periods, one can compute that price levels in May 1984 have declined $234 per ton for yellowfin and $288 per ton for skipjack from what they were in the earlier period. When one realizes that the annual domestic catch of these two species for canning is around 240,000 tons, even a conservative application of the various price reductions that have occurred would result in a loss in catch value well in excess of $40 million annually.

This figure is consistent with the response by tuna purse seiners to a questionnaire sent to them by the U.S. International Trade Commission regarding the seiners' financial status. With 65% to 81% of the total U.S. purse seine fleet reporting, the responses showed that for the 5-year period

from 1979-1983, only in 1980 did the responding boat owners escape a loss. In that year collective income for the respondents, before depreciation, was $13 million. Small losses in 1979 and 1981 made the average income for those 3 years less than $800,000 per year for the entire group of respondents. In 1982 and 1983 the financial picture became much worse with the loss before depreciation reaching $40.8 million and $14.3 million in the respective years. Lower fuel costs, repairs, and interest expenses in 1983 kept losses from being substantially higher.

This disastrous financial picture is reflected in other grim statistics on the tuna industry.

1. In the last 5 years active U.S. tuna purse seine vessels have been reduced from 126 to 87 and of the remaining 87, 6 are under charter to foreign interests.

2. At least 30 vessels are setting in port, inactive, and 5 boat owners are bankrupt.

3. Since 1981, no new investments in tuna vessel construction have been undertaken.

4. In 1984, the market value of U.S. tuna purse seine vessels, as reflected by sales caused by mortgage foreclosures, has crashed to salvage value prices.

5. In the past 6 years, the number of Pacific Coast tuna canneries have declined from six to one, the remaining one in San Pedro, California. This reduction in processing facilities can restrict the fishing opportunity of the U.S. fleet to efficiently fish in the Eastern Pacific. Lack of processing plants will force vessels to fish less off the Pacific Coast even though the fishing grounds are productive. Also, the loss of tuna processing facilities reduces the processing capability for other fish processed by the same facilities and constitutes another economic loss to the Pacific Coast.

Summary: Effect of Imports on U.S. Tuna Industry

The recent large volume in low priced canned tuna imports amounted to over 26% of the U.S. production in 1984. In order to compete with these growing imports, U.S. canners have lowered the prices they pay U.S. fishermen for raw tuna. In 1984 this probably resulted in a reduction in the value of the U.S. catch of over $40 million. In the period 1979-83, the U.S. tuna seine fleet suffered losses in 4 out of the 5 years surveyed. Also, during the period 1980-84, the number of active tuna seine vessels has been reduced from 126 to 87. Many vessels are inactive, and some boat owners have gone bankrupt. The market value of tuna seine vessels has plunged to a salvage level and no new investments in tuna vessel construction have been undertaken since 1981. Pacific Coast tuna canneries have been reduced from six to one with the attendant economic losses that such a major decline in processing facilities produces.

The Need for Increased Tariff Protection

The foregoing information clearly indicates that the tuna industry is in a crisis situation and urgently needs help. Growing foreign competition from canned tuna, with only token tariff protection, is killing the U.S. industry.

Back in the early 1930's when imports of canned tuna first began, the U.S. government saw fit to increase the tariff from a 30% duty rate to 45% after the foreign share of the U.S. market increased from zero to 31% in 3 years. A similar situation faces the industry today but with greater stakes because the industry is so much bigger. In 1940 the industry produced 4 million standard cases of canned tuna, while in 1981 it produced close to 32 million cases worth $1.18 billion. From 1980 to 1984, foreign canned tuna imports as a percentage of U.S. canned tuna production rose from 10% to over 25% and early indications from 1985[1/] suggest that this percentage, as well as the import volume, will increase greatly. These growing imports are a certain guarantee that 1985 will be another year of lower prices for U.S. fishermen, more vessels operating at a loss, more vessel mortgage foreclosures and more vessel owners going bankrupt.

This most serious and urgent problem cannot be solved by the industry itself. The federal government must provide the solution by increasing tariff protection against growing imports as it did in 1934. The Pacific Marine Fisheries Commission believes that the present difference in duty rate between tuna canned in oil and canned tuna, not in oil, has no justification in history or logic. Tariff protection is no protection at all if a duty is levied on only one of two almost identical types of imports. Protection against excessive imports of canned tuna should be applied evenly on all canned tuna products. The present duty rate of 35% for tuna canned in oil should be applied to canned tuna, not in oil, rather than the present 6% duty rate. Such an action would return the American product to a more competitive balance with the foreign imports and help restore economic health to the U.S. tuna industry. To ignore the plight of the tuna industry in its present condition is to risk losing a multibillion dollar contributor to the U.S. economy--and America can ill afford to do that.

1/Fishery Market News Report, T-27.

PACIFIC SEAFOOD PROCESSORS ASSOCIATION,
Washington, DC, June 25, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, Washington, DC.

DEAR CONGRESSMAN GIBBONS: I am writing on behalf of the Pacific Seafood Processors Association in support of H.R. 1262, a bill to equalize the tariff treatment of imported tuna packed in water and in oil.

Although the members of this Association do not have a direct financial interest in this issue, we feel that the competitive burden which this tariff anomaly has placed on the domestic tuna industry must be corrected. The differing treatment of tuna packed in water and tuna packed in oil was never consciously intended when the schedule was imposed. Due to changes in market conditions, the domestic industry finds itself in the type of unfair competitive situation which no U.S. industry should have to contend with. We strongly suggest that your Subcommittee and the full Ways and Means Committee take action to move H.R. 1262 to the House floor as soon as possible.

Thank you for your consideration of our views on this issue.

Sincerely,

DENNA J. PHELAND for
ROBT F. MORGAN, *President.*

RALSTON PURINA CO.,
VAN CAMP SEAFOOD DIVISION,
San Diego, CA, June 27, 1985.

Mr. JOSEPH D. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. DOWLEY: Summary: Van Camp Seafood at this time recommends against a hearing or further consideration of H.R. 1262. H.R. 1262, if passed, would have an immediate adverse effect on the company's cost of goods and its supply capability.

Van Camp Seafood is a Division of Ralston Purina Company, 11555 Sorrento Valley Road, Sand Diego, CA 92121. Van Camp Seafood is the second largest canner of tuna in the United States, with a market share of about 20 percent. Its product is marketed almost entirely under the Chicken of the Sea label.

H.R. 1262 has been proposed on the basis that the present difference between duties on tuna packed in oil and tuna packed in water is an unintended carryover from a WW II agreement. Van Camp Seafood believes that the difference is, in fact, the result of a series of trade negotiations, the effects of which have changed with time.

The effect of canned tuna tariffs on the six U.S. tuna packers varies significantly, one from the other, according to whether they import significantly or not. There are very significant differences of opinion among U.S. tuna packers (as well as other parts of the industry) as to whether tuna tariff increases or decreases should be sought.

A portion of the industry sought tariff changes last year via a 201 petition and investigation of the U.S.I.T.C. but the U.S.I.T.C. did not recommend changes. Additionally, in 1984, a portion of the industry sought, but failed to get, a legislative change of the canned tuna tariff structure. Now, as we understand it, a new U.S.I.T.C. study of the tuna industry, under Section 332(g) of the Tariff Act of 1930, will soon be undertaken. On this basis, we suggest that Congressional action, including hearings on H.R. 1262, would be inappropriate at this time.

Sincerely yours,

BERNARD D. FINK,
Director, Industry and
Government Affairs, Fisheries.

STATEMENT OF EDWARD A. RYAN, VICE PRESIDENT, ASSISTANT TO THE PRESIDENT, STAR-KIST FOODS, INC.

SUMMARY

The growth of imports of canned tuna in water has severely harmed the U.S. industry and threatens to destroy the industry, both vessels and processing facilities.

Canned imports were up 157% in 1984 vs. 1980 and 1985 is projected to increase 33% from 1984, a total of 228% 1980/1985. Market penetration is approaching 30%.

Value per pound of imports has dropped 36.5% from 1981 to 1985 (3 months) and domestic prices of canned product and raw fish have dropped about equally.

Since December 1982, 4 U.S. canneries have been closed, and at least 3 of the remaining 8 are reputed to be losing money.

The U.S. fleet is technically bankrupt, almost in total, with many actual foreclosures or bankruptcies, and is operating without the ability to service debt. There have not been mass foreclosures because financing agencies have no use or sale for the assets.

The current embargo against Mexican tuna coming into the U.S. is expected to be lifted soon, and the government owned subsidized Mexican tuna industry is capable of adding at least another 20% to the canned import figure and to offer the U.S. market substantial frozen fish at low prices, further harming the U.S. fleet economics.

Existing duty rates assist the U.S. industry effectively only for tuna in oil, which is a declining segment of sales, currently accounting for less than 40% of retail sales and virtually none of the large institutional sales.

The U.S. industry is not obsolete, but is the most technically advanced in the world, having developed all fishing and processing innovations since the origin of the industry in the United States.

The U.S. industry is in danger of extinction, the fleet first and followed by the decline of domestic processing unless assistance is provided.

The recommendation is to approve HR 1262 and to equalize duties on canned tuna at 35% ad valorem, the current rate for tuna in oil, to permit the U.S. industry to survive. The exporting countries would still have the ability to continue volume exports to the U.S. They do not currently export tuna in oil only because the existing rate on tuna in water is so much lower.

COMMENTS

My name is Edward A. Ryan, and I am currently Vice-President, Assistant to the President, of Star-Kist Foods, Inc., 180 East Ocean Blvd., Long Beach, CA., 90802. I may be reached at (213)–590–3600. In this statement, I speak only for Star-Kist Foods, Inc. although I believe that my comments would be supported by a majority of the owners of the U.S. tuna fleet, the unions representing the U.S. crew members in the fleet and the U.S. cannery workers, and at least three of the other five U.S. tuna processors.

In the past 27 years of employment at Star-Kist, I have functioned as a Research Scientist, Operations Manager, General Manager (Director) of Fish Procurement and Vice-President of Administration with responsibility for Research and Development, Industrial Relations, Personnel, and Government, Industry and Public Relations. In my present position I have those latter responsibilites and act in all areas of the business to troubleshoot and support, as requested by the President. I am a Director of the U.S. Tuna Foundation, Director and Past Chairman of the Tuna Research Foundation, a member of Industry Sector Advisory Committee #4 (Consumer Products) for the U.S. Dept. of Commerce and of the U.S. Advisory committees to the State Dept. for fishery matters and to the Commerce Dept. for the Inter-American Tropical Tuna Commission (IATTC) and the International Commission for Atlantic Tunas (ICAT), among other responsibilities.

Star-Kist Foods, Inc. is a wholly owned subsidiary of the H.J. Heinz Co. of Pittsburgh, PA and is the world's largest processor and seller of tuna. Star-Kist's processing facilities for the United States market are currently located in Mayaguez, Puerto Rico and in Pago Pago, American Samoa, both U.S. territories, and are respectively the world's largest and second largest operating tuna canneries.

This statement is in support of HR 1262 (Mr. Anderson) to equalize the duties on imported canned tuna, whether or not packed in oil, at 35% ad valorem.

The U.S tuna industry is beseiged by a flood of imports of cheap canned tuna packed in water. The enclosed Fishery Market News Report of June 5, 1985, gives the details of the rise of these imports. From 63 million pounds in 1980, imports rose to 162 million pounds in 1984, an increase of 157%. In the three months of 1985

imports are almost equal to those of 1981 and were nearly 100% higher than for the same period in 1984, only one year earlier. Current projections are that 1985 imports will exceed 215 million pounds, up 33% from 1984, and with a market penetration in excess of 25% and possibly approaching 30%.

Of even more importance is the dramatic decrease in the value of imports from $1.56 per pound in 1981 to $0.99 per pound in 1985 to date, a decrease of 36.5%. Prices for domestic advertised brand product have fallen about an equivalent percentage and are continuing to weaken. The prices for frozen raw fish paid to the U.S. tuna fleet have fallen from an average of about $1,000 per short ton in 1981/1982 to less than $700 per short ton in 1985, a decrease of about the same proportion as that of the imported tuna.

As can clearly be seen, the growth in imports was initially from product from the Philippines, followed by product from Thailand. In the first 4 months of 1985, nearly 58% of the total imports originated in Thailand.

The effect of this growth on the U.S. industry had been catastrophic. Four U.S. canneries have been closed since December 1982, three of these in California (Dec. 1982, July 1984, and the Star-Kist flagship cannery in Oct. 1984), and one in Hawaii. Currently, eight U.S. canneries are operating, 5 in Puerto Rico (of which only one is in full production), 1 in California (at about half capacity) and 2 in American Samoa (one at capacity). At least three of these canneries are reported to be operating at a loss, and have a doubtful future. The U.S. canneries that were closed were all unprofitable. The major difference, causing the loss of 5,000 jobs, is the difference in labor costs and expenses, and the additional costs of conducting a food-processing business according to U.S. Standards and Good Manufacturing Practices. Wages in California have exceeded $7.00/hour plus attendant payroll costs for a total of over $10.00 per hour. Current wages in Puerto Rico average in excess of $5.00/hour plus payroll costs, and $3.00 per hour plus costs in American Samoa. Wages in Thailand are reported to be $0.35/hour or less, with 10% payroll costs only and no overtime premium. Workers are reported to work 10 hour days, at least 6 days a week, with some receiving only 12 to 14 national holidays as non-working days. There is approximately ½ of one hour of labor, at a minimum, to produce one case of tuna with 19.5 pounds of net weight, so the exporters have a wage cost advantage from $2.00 to $3.50 per case at Samoa/Puerto Rico and nearly $5.00 in California. This does not consider the other costs of doing business in the U.S. or the operating and export assistance received by the exporting companies.

Equally serious is the plight of the U.S. tuna fleet, the only high seas fishing fleet of the United States. The lower prices being paid, which are still at best only equal to the prices paid by the Southeast Asian processors, have reduced the U.S. fleet to virtual bankruptcy. Despite every effort to reduce costs, almost every vessel is operating at no better than break-even on its operating costs, with no funds available for any debt-service and with maintenance and repairs reduced to undesirable levels. Vessel owners, or the National Marine Fisheries Service or various loaning institutions, can confirm this situation. Numerous vessels have gone bankrupt or have been foreclosed and the majority of the rest of the fleet is in technical default and is technically bankrupt.

For several years there has been an embargo against tuna from Mexico entering the United States. This has been in place because of Mexican sizures of U.S. vessels operating in waters claimed by Mexico but not recognized by the United States. Every present indication is that the lifting of this embargo is imminent. Mexico has built a tuna fleet with the capacity to easily catch 125,000 tons per year. This fleet has been totally financed by the Government of Mexico. Mexico also has processing capacity quoted as being 20,000 tons of raw fish a year, against a domestic market that does not exceed the equivalent of 300,000 tons. The processors are almost mostly owned, and all subsidized, by the government of Mexico. That government has clearly stated that it desires to export both excesses canned and frozen tuna to the United States from their financed facilities. Taking their own numbers from their existing capacities, Mexico has the power to export over 40 million pounds of canned product and 55 thousand tons of frozen fish to the U.S. annually, at any competitive price they may choose. These additional potential imports carry the threat of the final destruction of the U.S. fleet and the future closure of, or drastic reduction in production at, the remaining U.S. processing facilities. The future for the U.S. industry is currently bleak indeed.

In 1983, the U.S. industry, led by Star-Kist, filed a countervailing duty suit against the Philippine exporters. Although subsidies were found, the resulting CVD was determined at only 0.72%, and, upon review, the economic situation in the Philippines had so deteriorated that the CVD was reduced further, so as to be deemed de minimus.

In 1984, the U.S. tuna industry filed a Section 201 petition with the U.S. International Trade Commission requesting tariff relief. Two U.S. processors, who had closed canneries in California and who had become importers of product for their advertised brand (supplementing their remaining production in Puerto Rico and, for one, in American Samoa), opposed this petition. It was supported by the other processors, the entire tuna fleet, and all of the labor unions associated with the industry.

The ITC found that imports had increased substantially, and that the industry had been buried by imports, but on a vote of 1-4 declared that the imports were not the most important cause of injury. Essentially the ITC declared that the latest round of vessel construction based upon the $1,000/ton average price in 1981/1982 constituted over capitalization which was the major cause.

The current duty rates on imported canned tuna, in effect since the last round of multi-lateral negotiations, are 35% ad valorem on tuna packed in oil, and 6% ad valorem on tuna packed in water up to a quantity equal to 20% of the previous year's domestic pack in the continental U.S. and Puerto Rico, after which it rises to 12½% ad valorem. The product from American Samoa is excluded from the base in calculating the 6% quota among and from being counted against the quota amount. The 6% quota amount in 1985 was exceeded om May, the earliest date in history. In 1984, and apparently in 1985, the imposition of the additional 6½% duty did not substantially show the import rate or increase the final U.S. offered price of imports.

Also, due to changing dietary preferences in the U.S. the percentage of tuna sold packed in oil, the traditional product, has decreased rapidly. In early 1985, tuna in oil represents less than 40'% of total retail sales and virtually none of the institutional sales. Because of this decline, and fearful of further acceleration, the U.S. processors must sell their tuna in oil at the same price as tuna in water. The low-priced imports have therefore lowered all prices and the apparent duty protection on oil packs is illusory, only forcing the exporters to concentrate on water packs.

It may be noted that the EEC, another major tuna processing and consuming area, though the total consumption does not reach 50% of the U.S. consumption, has maintained an equalized duty on canned tuna, whether in oil or not, for many years. Their rate is 24% on all products, and the same processors who export to the U.S. also send substantial quantities to the EEC where these rates, and other import limitations, are borne.

The tuna industry filed its section 201 petition in 1984, with the knowledge that it had been severely injured by the imports. In 1985, it has become apparent that the industry did not realize how much worse the situation could become, both with increased imports from existing suppliers and with the threatened situations from Mexico. The recent bi-lateral subsidies agreement, signed by the U.S. Trade Representative, with Mexico even makes a countervailing duty suit against the totally subsidized Mexican product that much more difficult.

The tuna industry was born and developed in the United States. The U.S. flag vessels are the most modern and efficient in the world, having led with technological developments. The U.S. processors are equally advanced and no other country has equal efficiency and technology. The U.S. industry is not obsolete in its facilities. Nevertheless, this native industry is in distinct and immediate danger of moving further to extinction, with the nations supply of tuna being mostly, and eventually totally supplied in canned form from foreign sources which have neither the requirement of, or dedication to, quality and safe production as is undertaken by the U.S. industry. A great tradition is about to be destroyed, and several thousand semi-skilled jobs threatened with loss, unless reasonable help is extended.

Thank you.

50-969 O—85——11

U.S. IMPORTS FOR CONSUMPTION BY PRINCIPAL SOURCES
TUNA IN AIRTIGHT CONTAINERS (OIL AND WATER)

1980-1985 1/

SOURCE	1980	1981	1982	1983	1984	1985
			QUANTITY (1,000 POUNDS)			
CANADA	---	---	2	2,106	---	88
ECUADOR	---	---	---	---	890	1,367
INDONESIA	---	146	595	2,634	2,222	578
JAPAN	24,794	31,271	26,681	20,387	26,855	11,681
MALAYSIA	66	696	755	3,083	1,608	1,186
PHILIPPINES	13,777	21,451	27,631	32,018	22,225	7,379
SOUTH KOREA	127	31	49	68	82	58
SPAIN 2/	146	170	120	133	214	47
TAIWAN	15,947	15,771	10,704	18,710	17,935	5,908
THAILAND	6,405	10,315	18,667	39,930	89,685	40,902
OTHER	2,291	1,001	2,575	3,260	597	209
TOTAL	63,553	70,852	87,579	122,329	162,313	69,403
			VALUE (1,000 DOLLARS)			
CANADA	---	---	5	2,986	---	75
ECUADOR	---	---	---	---	837	1,170
INDONESIA	---	209	699	2,679	2,102	542
JAPAN	42,015	36,453	38,361	24,643	29,186	12,477
MALAYSIA	76	1,230	1,242	4,068	1,893	1,321
PHILIPPINES	20,043	30,504	31,085	32,291	20,396	6,267
SOUTH KOREA	189	58	79	69	75	58
SPAIN 2/	367	402	300	268	376	88
TAIWAN	23,316	24,631	14,366	22,772	22,475	7,866
THAILAND	8,875	13,400	22,711	43,259	89,253	38,355
OTHER	2,373	1,471	4,299	4,289	677	244
TOTAL	97,254	110,358	113,347	137,324	167,270	68,463
			UNIT VALUE (PER POUND)			
CANADA	$ ---	$ ---	$ 2.96	$ 1.42	$ ---	$ 0.86
ECUADOR	---	---	---	---	0.94	0.86
INDONESIA	---	1.43	1.18	1.01	0.95	0.94
JAPAN	1.69	1.71	1.46	1.20	1.09	1.07
MALAYSIA	1.14	1.77	1.64	1.32	1.18	1.11
PHILIPPINES	1.45	1.42	1.12	1.00	0.92	0.85
SOUTH KOREA	1.48	1.86	1.61	1.02	0.91	0.99
SPAIN 2/	2.52	2.36	2.50	2.01	1.76	1.88
TAIWAN	1.46	1.56	1.34	1.21	1.26	1.33
THAILAND	1.39	1.49	1.22	1.08	1.00	0.94
OTHER	1.04	1.47	1.66	1.31	1.14	1.16
AVERAGE	1.53	1.56	1.29	1.12	1.03	0.99
			PERCENTAGE OF TOTAL QUANTITY			
CANADA	---	---	***	2	---	***
ECUADOR	---	---	---	---	1	2
INDONESIA	---	***	1	2	1	1
JAPAN	39	30	30	17	17	17
MALAYSIA	***	1	1	2	1	2
PHILIPPINES	22	30	32	26	14	11
SOUTH KOREA	***	***	***	***	***	***
SPAIN 2/	***	***	***	***	***	***
TAIWAN	25	22	12	15	11	8
THAILAND	10	15	21	33	55	59
OTHER	4	2	3	3	***	***
TOTAL	100	100	100	100	100	100

*** Less than 1 percent, included in "OTHER" listing.

1/ 1980-1984, January-December; 1985, January-March

2/ Mainly oil packed

Source: Department of Commerce, Bureau of the Census

UNITED STATES TUNA FOUNDATION,
Washington, DC, June 28, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. DOWLEY: On behalf of the United States Tuna Foundation, a non-profit trade association consisting of U.S. vessel owners and operators, U.S. cannery workers and crew members and U.S. tuna processors, I express strong support for HR 1262. If there is to be a viable U.S. tuna industry in the future, HR 1262 or its equivalent, must be enacted.

In 1984, the U.S. tuna industry initiated a Section 201 petition under the trade laws of the United States. In August of 1984, the International Trade Commission ruled that, although imports were increasing and the domestic industry had suffered serious injury, the increased imports were not a substantial cause of the serious injury. This ruling was based on the mistaken belief that the imports were abating and that the domestic industry was adjusting to the import competition.

Subsequent to the 1984 ITC ruling imports have increased approximately 82% this year to date over the same period in 1984. Far from adjusting to import competition, the domestic industry has suffered a serious economic decline as a result of the flood of cheaply priced imports of canned tuna in water.

Since 1980 imports have increased by more than 200% with a market penetration approaching 30%. Of added significance is the fact that over this period the value of imports has dropped by more than 30% thus depressing the domestic prices of both canned product and raw fish. As a result, domestic processors have closed almost all mainland processing facilities and the U.S. tuna fleet, the most technologically advanced fishing fleet in the world, is virtually bankrupt.

The U.S. tuna industry has long been considered the flagship of U.S. fisheries, not only providing a low-cost, high protein food source but also maintaining the most technologically advanced fishing fleet in the world. We do not want to end up in the same position as the domestic shoe industry. We should not be forced to show that we have lost 75% of the domestic market in order to obtain some form of import relief.

There are those who argue that the current U.S. trade deficit and its adjacent market problems will be corrected when the U.S. budget deficit is solved. These same people advocate that the strong dollar has put U.S. businesses at a competitive disadvantage in international trade. The scenario proceeds that once the budget deficit is solved, the strong dollar problem will also be solved and U.S. trade will again be healthy, wealthy and wise. We disagree with this scenario.

We do agree that the strong dollar has hurt U.S. business interests both in competing abroad and in protecting its share of the domestic market. Most underdeveloped nations are attracted to the United States market by the strong U.S. dollar and the ease with which market penetration is possible. When analyzing the U.S. canned tuna market the strong dollar is only one factor to be considered.

The domestic tuna industry, like many labor intensive U.S. industries, must compete with less developed countries that continue to exploit their labor force. When you compare the average hourly rates for cannery workers on the U.S. mainland ($7.00 per hour) with the hourly rate of the dominant importer of canned tuna products (Thailand—.35¢ per hour), it is easy to see that the domestic budget deficit and the strong dollar are not the primary problems confronting the U.S. tuna industry.

The U.S. tuna industry is not an antiquated, decrepit industry that has not kept up with the times. It continues to be innovative and cost conscious, both in its processing and fleet operations. Regardless of innovation or cost cutting efforts, the industry is slowing sinking in to the murky waters of cheaply priced imports. How can a minimum wage country expect to compete with a country that allows its industry to pay a substandard hourly wage of 35 cents per hour?

Not only is our industry faced with cheap imports from Southeast Asia, it is anticipated that the trade embargo on tuna products from Mexico will be lifted sometime later this year. Mexico has the harvesting and processing capacity and the proximity to the United States to absolutely destroy the remnants of the U.S. tuna industry. Mexico has publicly announced its intention to subsidize its tuna fleet operations in an effort to become the dominant tuna fishing nation in the Western hemisphere. The U.S. tuna industry cannot compete with this government-sanctioned program.

We hope that you will give serious consideration to our dilemma as we believe the facts warrant some form of import relief. We further believe that HR 1262 offers a fair and equitable form of relief that will not act as an economic barrier to reason-

ably priced imports. It will, however, allow the domestic industry to become competitive once again and remain a viable part of U.S. fisheries.

Thank you for your consideration.

Sincerely,

DAVID G. BURNEY.

H.R. 1265

To suspend temporarily the duty on dicyclohexylbenzothiazolesulfenamide

U.S. INTERNATIONAL TRADE COMMISSION

Section-by-section analysis

H.R. 1265, if enacted, would suspend the column 1 rate of duty [1] for dicyclohexylbenzothiazylsulfenamide [2] (DCBS), classified in item 406.39 of the Tariff Schedules of the United States (TSUS), until December 31, 1989. The legislation would amend subpart B of part 1 of the Appendix to the TSUS to add item 906.45. This item would provide free entry for articles from countries entitled to MFN treatment, commencing on the fifteenth day following the date of enactment and ending on December 31, 1989. The column 2 rate of duty [3] would remain unchanged.

Background and sponsor's justification

Description and uses.—DCBS is a rubber-processing accelerator which speeds the cross-linking reaction of rubber with sulfur. Sulfur bridge cross-links (vulcanization) make the rubber harder and stronger, while eliminating the tackiness of untreated rubber. Rubber compounders use an average of 1.5 pounds of accelerator per 100 pounds of raw rubber. DCBS is a coarse-grained brown powder-or oil-coated granule having a melting point of 90°C (194°F). The material is batch-produced and then extruded to form granules. The oil coating provides cohesiveness to the material after extrusion. The finished product contains about 3 percent impurities. DCBS differs from other sulfenamide accelerators in that it has selective applications in the belted cord construction of radial tires. Other sulfenamide accelerators are used mainly in tire carcasses.

Sponsor's justification.—The present duty on DCBS increases the manufacturing cost of steel-belted radial ply tires. At the present time, DCBS is not produced in the United States.

The column 1 rate of duty on diphenyl guanidine and di-o-tolyl guanidine was suspended for three years beginning January 1, 1985 (subpart B of part 1 of the appendix to the TSUS, item 906.50). Guanidine derivatives are also rubber-processing accelerators possessing similar chemistry to, and having the same function as, DCBS. Since the suspended rate of duty for the two guanidine derivatives was very close to the current rate of duty for DCBS, the major importer believes that the duty rate for DCBS should also be temporarily suspended to maintain the competitiveness of these products in the domestic market.

Comparison with present law

Tariff treatment under the TSUS.—DCBS is classified in TSUS item 406.39, which coverrs heterocyclic compounds and their derivatives provided for in the Chemical Appendix to the Tariff Schedules. The column 1 duty rate is 1.7 cents per pound plus 16.2 percent ad valorem. The column 2 rate is 7 cents per pound plus 52 percent ad valorem. No least developed developing country (LDDC) [4] rates are provided

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MRN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] This is the preferred spelling for the product.

[3] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[4] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the

Continued

for this item. The pre-MTN column 1 rate was 1.7 cents per pound plus 12.5 percent ad valorem. Since no concessions were made at the Tokyo Round of the Multilateral Trade Negotiations for this item, there are no staged column 1 duty reductions. DCBS is not eligible for duty-free treatment under the Generalized System of Preferences.[5] However, imports from designated Caribbean countries could be eligible for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA)[6].

Tariff treatment under the proposed Harmonized System.—The Harmonized System (HS) commodity code number for DCBS is 2934.20.50.[7] The product is described as a compound containing a benzothiazole ring system. The column 1 rate of duty, to be effective upon implementation of the HS, is 3.7 cents per kilogram plus 16.2 percent ad valorem.

Structure of the domestic industry

DCBS is not produced in the United States. Among rubber-processing accelerators it is regarded as a specialty adhesion promoter, with specific application in the steel belting construction of radial tires. Domestic producers of other sulfenamide accelerators are American Cyanamid Co., B.F. Goodrich Chemical Co., the Goodyear Tire and Rubber Co., Monsanto Corp., and Uniroyal, Inc. These producers regard DCBS as a low-volume specialty accelerator that will not adversely affect their production or sales of sulfenamide accelerators.

Domestic production

There has been no U.S. production of DCBS during the past 5 years.

U.S. imports

The major importer of DCBS is Mobay Chemical Company, which imports it from its parent company, Bayer A.G. of the Federal Republic of Germany. From 1979 to 1983 the Commission's staff identified imports of DCBS ranging from 88,000 to 190,000 pounds. Industry sources estimate that imports of DCBS during 1984 were less than 500,000 pounds.

U.S. exports

There have been no U.S. exports of DCBS during the previous 5 years.

Apparent U.S. consumption

Data for domestic consumption of this chemical are not available.

Effect on revenue

The estimated revenue losses for the three-year period from 1985 through 1987, set forth below, are based on Commission data and industry sources.

Estimated revenue loss

Year:	*(Thousands)*
1985	$263
1986	317
1987	373

---

least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[5] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[6] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[7] Source: Trade Policy Staff Committee, *Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System.* (September 1984).

Technical comments

The preferred spelling for this product, dicyclohexylbenzothiazylsulfenamide, should be used in the article description for the TSUS. Also, the word "the" in line 6 should be capitalized.

U.S. DEPARTMENT OF COMMERCE,
Washington, DC, June 24, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in response to your request for the views of this Department on H.R. 1265, a bill "To suspend temporarily the duty on dicyclohexylbenzothiazolesulfenamide."

The Department has no objection to the enactment of H.R. 1265.

H.R. 1265 would suspend the column 1 (MFN) duty on this chemical product through December 31, 1989. The column 2 (statutory) rate of duty is unaffected by this legislation. This chemical presently enters the United States under Tariff Schedules of the United States (TSUS) item 406.39 with a MFN duty of 1.7 cents per pound plus 16.2 percent *ad valorem*. No concessions were made on this item during the Tokyo Round of trade negotiations. This chemical is not eligible for duty-free treatment under the U.S. Generalized System of Preferences.

Enactment of H.R. 1265 will not adversely affect any domestic industry. This chemical is not produced in the United States. Duty-free treatment of this rubber accelerator, which speeds the curing rate of rubber, should help two producers of tires become more competitive. There are two domestic importers supplying three radial tire producers.

The revenue loss from enactment of this bill cannot be calculated precisely since this chemical is only a portion of the basket category. We estimate the loss at between $150,000 and $200,000 based on an estimated import value of about $1 million. Enactment of this legislation would have no effect on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to Congress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS,
General Counsel.

STATEMENT OF RENE ZINGRAFF, VICE PRESIDENT, MICHELIN TIRE CORP.

This statement, in support of H.R. 1265, is submitted to the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, by Michelin Tire Corporation which is headquartered at Patewood Executive Park, Post Office Box 1446, Greenville, South Carolina. Michelin Tire Corporation is a U.S. manufacturer of steel-belted radial tires with a total of five (5) tire manufacturing plants located in the states of Alabama and South Carolina which employ approximately 7,000 of the 9,000 persons employed in the United States.

Michelin Tire Corporation wishes to go on record in support of H.R. 1265. This bill would temporarily suspend the duty on dicyclohexylbenzothiazylsulfenamide (hereinafter referred to as "DCBS") classified in item 406.3900 of the Tariff Schedule of the United States ("TSUS") until December 31, 1989.

This chemical is of vital importance to rubber manufacturing because it is used principally as a curing accelerator in the production of tires by Michelin and several other domestic tire manufacturers. DCBS is not produced in the United States. Accordingly, U.S. tire manufacturing companies must rely on imports as their only source. H.R. 1265 would temporarily eliminate an unnecessary economic burden and thereby enhance the competitive position of the U.S. tire manufacturing industry.

Diphenyl guanidine ("DPG"), another chemical accelerator used by certain U.S. rubber manufacturing companies in the manufacture of tires and for which there is neither a domestic manufacturing nor a domestically produced substitute, was listed for temporary duty suspension with the enactment last year of the Trade and Tariff Act of 1984 (Public Law 98-573). While these two chemicals are similar in the purpose for which they are used in the tire manufacturing processes, Michelin cannot substitute DPG for DCBS in its manufacturing process. Thus, the situation exists

where tire manufacturers utilizing one process can import an essential chemical duty free, while those employing another process must pay a duty. Enactment of H.R. 1265 would rectify this unfair situation. As stated earlier, DCBS is classified under TSUS Item 406.3900 which results in a duty rate under column 1 of 1.7 cents per pound, plus 16.2 percent ad valorem.

DCBS is presently produced by Vulnax in France and Bayer A.G., a West German chemical company. The products are imported by Cook Chemical Company and Mobay Chemical Company, respectively. We believe the annual U.S. market for DCBS to be approximately 200,000 kilograms.

Suspension of the currently imposed duty on DCBS, for which there is no domestic manufacturer nor readily available domestically produced substitute, will lessen the cost of producing radial tires. As a result, the competitiveness of our domestic producers in a world market will be strengthened, American jobs will be preserved and consumers will gain the benefit of relatively lower prices for domestically produced radial tires. As mentioned earlier, suspension will also eliminate an inequity which currently exists under our tariff laws.

On behalf of Michelin Tire Corporation, I urge your support and prompt consideration of H.R. 1265 when it is taken up by the Trade Subcommittee.

STATEMENT OF DONALD G. BROTZMAN, PRESIDENT, RUBBER MANUFACTURERS ASSOCIATION

This statement, in support of H.R. 1265, is submitted to the Subcommittee on Trade of the Committee on Ways and Means by the Rubber Manufacturers Association ("RMA"). The RMA is a national trade association representing nearly who hundred (200) companies engaged in the production of tires and other rubber goods. The RMA wishes to go on record in support of H.R. 1265. This bill would temporarily suspend the column 1 rate of duty for dicyclohexylbenzothiazothiazolesulfenamide[1] (DCBS) classified in item 406.3900 of the Tariff Schedule of the United States. The legislation would amend subpart B of part 1 of the Appendix to the TSUS to add item 906.45. The column 1 duty rate for DCBS is 1.7 cents per pound, plus 16.2 percent ad valorem.

This chemical is of vital importance to rubber manufacturing because it is used principally as a curing accelerator in the production of tires. DCBS is not currently produced in the United States and has not been produced for at least five years. Thus, U.S. rubber manufacturing companies must rely on imports as their only source. H.R. 1265 would temporarily eliminate an unnecessary economic burden and thereby enhance the competitive position of the U.S. rubber industry.

In the last Congress, temporary relief was granted to another rubber accelerator, diphenyl guanidine ("DPG") which is used by many of RMA's member companies. However, a number of our members use DCBS rather than DPG and, while the two chemicals are similar, those companies using DCBS cannot substitute DPG. Thus, enactment of H.R. 1265 would rectify this situation and provide tariff relief for both accelerators. Further details on this chemical including the impact on estimated revenue loss, are included in the May 6, 1985, memorandum submitted to the Ways and Means Committee by the International Trade Commission (copy attached).

On behalf of the domestic tire and rubber industry, RMA urges your support and prompt consideration of H.R. 1265.

---

[1] Also spelled "dicyclohexylbenzothiazylsulfenamide."

H.R. 1417

To extend the temporary suspension of duty on umbrella frames until January 1, 1990

U.S. International Trade Commission

Section-by-section analysis

H.R. 1417 would continue the existing temporary suspension of most-favored-nation customs duties on frames for hand-held umbrellas chiefly used for protection against rain for 3 additional years, changing the termination date from December 31, 1986 to December 31, 1989. The amendment would be effective after the expiration of the current suspension on December 31, 1986.

Background and justification

Description and uses.—Umbrella frames and skeletons are made principally from metal and consist of a radiating frame which collapses around a central supporting shaft. Additional material, usually of fabric, paper, or plastics, is attached to the frame to form a completed umbrella, a device used for protection against the weather or the sun's rays.

Sponsor's justification.—Umbrella frames and parts, which are not produced in the United States, were imported primarily from Taiwan and entered the United States duty-free under the provisions of the Generalized System of Preferences (GSP).[1] When Taiwan lost GSP eligibility on March 30 ,1984, under the so-called "competitive need" limitation, the application rate of duty became the column 1 rate, since reduced to 12 percent ad volorem.[2] Congresswoman Kaptur introduced a bill (H.R. 5783) to provided for duty-free entry for frames for hand-held umbrellas, chiefly used for protection against the rain. That bill, which was enacted in the Trade and Tariff Act of 1984 (Pub. L. 98–573; 98 Stat. 2948, 2966), extended duty-free treatment on umbrella frames through December 31, 1986. The proposed legislation would allow domestic producers of umbrellas to continue importing frames free of duty for an additional three years (through December 31, 1989). No statement concerning the legislation appeared in the Congressional Record at the time of its introduction.

Comparison with present law

Tariff treatment under the TSUS.—Umbrella frames and skeletons of metal are classified in Tariff Schedules of the United States (TSUS) item 751.20, covering metal parts of umbrellas, walking sticks, canes, and other articles. The duty suspension, under item 912.45 in the Appendix to the TSUS, covers umbrella frames in one of the two statistical reporting numbers for umbrella frames and skeletons. (That is, the Tariff Schedules of the United States Annotated (TSUSA) item 751.2005 provides for frames for hand-held umbrellas chiefly used for protection against rain, which are covered by the duty suspension, and TSUSA item 751.2015 provides for all other frames and skeletons).

---

[1] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[2] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates wouild not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

Articles classified in TSUS item 751.20 are eligible for duty-free entry under the provisons of the GSP. Taiwan, the principal supplier of these products, lost GSP eligibility effective March 30, 1984. The current column 1 rate of duty under TSUS item 751.20 is 12 percent ad valorem; no further reductions are scheduled. Table 1 shows the Column 1 rate of duty in effect prior to the Tokyo round of the Multilateral Trade Negotiations (MTN) the staged reductions in rates of duty, and the Column 2 rate of duty applicable to umbrella frames and skeletons of metal.[3] These articles are eligible for duty-free entry under the Caribbean Basin Economic Recovery Act (CBERA) if imported from beneficiary countries.[4]

Tariff treatment under the proposed Harmonized System (HS).—All umbrella frames (including the subject products) are classified under the provisions of 6603.20.0000 of the Harmonized System, covering umbrella frames, including frames mounted on shafts (sticks). The proposed column 1-general rate of duty is 12 percent ad valorem.

Table 1.--Umbrella frames and skeletons of metal: U.S. rates of duty, by TSUS items

(Percent ad valorem)

TSUS item No. 1/	Description	Pre-MTN col. 1 rate of duty 2/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--			
			1980	1981	1982	1983
751.20A*	Umbrellas frames and skeletons of metal.	30%	27%	24%	21%	18%

TSUS item No. 1/	Description	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--Continued				Col. 2 rate of duty
		1984	1985	1986	1987	
751.20A*	Umbrellas frames and skeletons of metal.	15%	12%	12%	12%	60%.

1/ The designation "A*" indicates that the item is currently designated as an eligible article for duty-free treatment under the U.S. Generalized Systems of Preferences (GSP) but that certain of the beneficiary developing countries, specified in general headnote 3(c) of the Tariff Schedules of the United States, are not eligible--namely, Taiwan.

2/ Rate effective prior to Jan. 1. 1980.

[3] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[4] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

TABLE 2.—UMBRELLA FRAMES AND SKELETONS OF METAL: U.S. PRODUCERS' SHIPMENTS, EXPORTS, IMPORTS, APPARENT CONSUMPTION AND RATIO OF IMPORTS TO CONSUMPTION, 1979–83

Year	Producers shipments	Exports	Imports	Apparent consumption	Ratio (percent) of imports to consumption
	(Quantity in thousands of units)				
1980	5	0	1,259	1,264	99
1981	5	0	600	605	99
1982	0	0	838	838	100
1983	0	0	1,017	1,017	100
1984	0	0	1,385	1,385	100
	(Value in thousands of dollars)				
1980	(1)	0	779	779	100
1981	(1)	0	529	529	100
1982	0	0	952	952	100
1983	0	0	1,890	1,890	100
1984	0	0	3,805	3,805	100

[1] Less than 500.

Source: Estimated by the staff of the International Trade Commission from official statistics of the U.S. Department of Commerce.

Structure of the domestic industry

There are no known U.S. manufacturers of frames of metal for hand-held rain umbrellas.[5] However, an estimated 8 to 10 companies manufacture umbrella frames for larger umbrellas not intended to be hand-held, such as patio umbrellas or beach umbrellas. These companies maintain their own metal works and usually produce complete lines of patio, garden and beach furniture, including chairs and tables.

Domestic production

There has been no known U.S. production of frames of metal for hand-held umbrellas for several years. The last remaining producer, located in Philadelphia, Pennsylvania, went out of business approximately three years ago. Prior to that time, its production was negligible.

U.S. imports

U.S. imports of frames of metal for hand-held umbrellas are estimated by the U.S. Customs Service to have comprised approximately 97 percent of the imports under TSUSA item 751.2020 (which encompassed current items 751.2005 and 751.2015) during 1980–84. Imports of frames for hand-held rain umbrellas increased, in terms of both quantity and value, during the period 1980–84. In terms of quantity, imports increased from approximately 1.2 million units to nearly 1.4 million units; in value, imports increased from an estimated $779,000 to $3.8 million (table 2).[6] In 1984, Taiwan supplied 97 percent of total imports, distantly followed by Thailand.

U.S. exports

It is believed there are no exports of frames of metal for hand-held umbrellas.

Apparent U.S. consumption

During 1980–84, apparent U.S. consumption of frames for hand-held umbrellas of metal increased erratically, from 1.3 million units to nearly 1.4 million units in terms of quantity, and from $779,000 to $3.8 million in value (table 2). The ratio of imports to consumption was approximately 100 percent for all years considered, both in terms of quantity and value.

[5] There is a hand-held rain umbrella industry in the United States, consisting of approximately 5–6 firms primarily manufacturing specialty or golf umbrellas. These firms purchase imported frames or skeletons and attach the protective covering material to the frame. We have not been able to obtain the names and addresses of these firms.

[6] The names and locations of the principal importers are not available.

Potential loss of revenue

Based on estimated 1984 imports of these articles of $3.8 million, the continued suspension of the duty of 12 percent ad valorem would result in an annual loss of U.S. customs revenues of approximately $456,000.

Technical comments

To avoid a possible lapse in the duty suspension provision, at least in terms of its reflection in the 1987 edition of the TSUSA, it is recommended that section 2 of the legislation be stricken and the extension made effective on enactment.

U.S. DEPARTMENT OF COMMERCE,
Washington, DC, June 25, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on H.R. 1417, a bill "To extend the temporary suspension of duty on umbrella frames until January 1, 1990."

The Department of Commerce opposes the bill as drafted but would have no objection to enactment of H.R. 1417 provided the extension of the duty suspension were limited to a period of six months.

H.R. 1417 would extend the current suspension of duties from December 31, 1986, through December 31, 1989, for frames for hand-held umbrellas chiefly used for protection against rain. The column 2 (statutory) duty is unaffected by this legislation.

In the absence of the duty suspension, metal frames for hand-held umbrellas chiefly used for protection against rain would enter the United States under Tariff Schedules of the United States (TSUS) item 751.20 with a column 1 rate of duty of 12 percent ad valorem. This is the final duty resulting from concessions made in the Tokyo Round of trade negotiations. TSUS 751.20 is eligible for duty-free treatment under the U.S. Generalized System of Preferences (GSP). However, articles imported under TSUS 751.20 from Taiwan are currently ineligible for GSP duty-free treatment since that country exceeded the competitive need limits in 1983. Taiwan accounted for 97 percent of U.S. imports of metal umbrella frames and skeletons 1984.

The Department notes that duty-free entry of frames would improve the competitiveness of the U.S. companies producing hand-held umbrellas. Domestic hand-held manufacturers are dependent on imported frames, mainly from Taiwan, in their production of umbrellas. Import duties on frames would needlessly increase the domestic producers costs and place their products at a competitive disadvantage compared to imported umbrellas. Complete umbrellas are subject to only an 8.2 percent ad valorem duty and also are eligible for duty-free treatment under GSP; although, again, Taiwan is ineligible for duty-free treatment for umbrellas under GSP.

While the duty suspension assists U.S. producers, we recommend that any extension of the current duty suspension should be limited to six months. A six month extension to July 1, 1987, would provide opportunity for the President, under the Trade and Tariff Act of 1984, to consider a waiver of competitive need limits in the context of GSP when advanced developing countries, such as Taiwan, demonstrate a willingness to remove or reduce barriers to U.S. exports. In such circumstances, maintenance of duty-free status for umbrella frames would assist the competitive position of both U.S. producers and exporters. The earliest date that a competitive need waiver can become effective is July 1, 1987.

We estimate that about $450,000 in duties could be attributable to imports of frames for hand-held umbrellas in 1984. Enactment of H.R. 1417 would have no effect on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS,
General Counsel.

STATEMENT OF THE AMALGAMATED CLOTHING AND TEXTILE WORKERS UNION, AFL–CIO

The Amalgamated Clothing and Textile Workers Union (ACTWU), AFL–CIO, has a membership of approximately 360,000 workers who produce various items of

men's and boys' clothing and textile mill products. Our textile division also represents workers in the domestic umbrella industry.

ACTWU strongly supports Congresswoman Kaptur's bill, H.R. 1417, to extend the duty-free treatment on hand-held metal umbrella frames for an additional three years.

Last year, Congress suspended these duties, which were then 15 percent, for approximately a two year period. Section 165 of H.R. 3398 (P.L. 98-573) suspends until December 31, 1986 the duty on frames for hand-held umbrellas used chiefly for protection against rain, provided for in Item 751.20, part 8B, schedule 7. H.R. 1417 would extend this treatment for a period of three years.

There is every justification for the continuation of the duty suspension. Virtually all umbrella frames of metal for hand-held umbrellas are imported. There are no domestic manufacturers of the umbrella frames in question, and there is, therefore, no domestic industry which would be placed in jeopardy by the continuation of the duty suspension. On the other hand, domestic umbrella manufacturers who use domestic textiles and our members engaged in the manufacture of domestic umbrellas would greatly benefit by the duty suspension, which duty would otherwise be 12 percent, on the frames, as it would keep the domestic umbrella industry more competitive with foreign imports and help keep textile and umbrella jobs in this country.

Imports of hand-held metal umbrella frames from developing countries are already duty-free when they enter this country under the Generalized System of Preferences (GSP) program, except in the case of Taiwan. Effective April 1, 1984, duties on Taiwanese umbrella frames reverted to MFN Column 1 duty rates because Taiwan exceeded the GSP competitive need limitation. But the current duty suspension means that no tariff is currently paid on the Taiwanese imports; however, when the duty suspension expires, the tariff on Taiwanese umbrella frames will rise to 12 percent. Because Taiwan is a primary, reliable and low-cost source for such frames, the duty reversion will be a major hardship for domestic umbrella producers. And it simply makes no sense to reimpose the duty on Taiwanese frames, or frames from any other county, when there is no domestic industry to protect.

Imports clearly dominate the domestic umbrella market. There is very little industry left in this country. What is left is struggling to survive against foreign imports. We do not really need to further burden our domestic industry with costs that are unnecessary. And the duty on these frames are an unnecessary cost. Therefore, ACTWU urges the Committee to report H.R. 1417 favorably.

STATEMENT OF HON. MARCY KAPTUR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. Chairman, I thank you for this opportunity to submit comment on H.R. 1417, a bill to extend the temporary suspension of duty on umbrella frames until January 1, 1990. As you recall, the Committee was gracious enough to include the initial duty suspension, H.R. 5783, in the Omnibus Technical Tariff Corrections Act during the last Congress. I thank the Committee for their assistance last year and am hopeful that we can work as closely together this year.

H.R. 1417 would simply extend the duty suspension until 1990. The rationale for extending the suspension remains the same as that for the initial suspension. The Haas-Jordan Company of Toledo, Ohio is one of the few remaining domestic manufacturers of rain-umbrellas. In excess of 95% of the umbrellas sold in the United States are manufactured overseas. This suspension has allowed domestic manufacturerd including Haas-Jordan to remain competitive with imported umbrellas.

Once again, I thank the Chairman for this opportunity. My staff or Mr. David F. Waltz, President of Haas-Jordan would be pleased to respond to any questions the Subcommittee may have. Thank you.

MESPO UMBRELLAS LTD.,
New York, NY, June 20, 1985.

Hon. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. DOWLEY: It has been brought to my attention that duty suspension bill H.R. 1417 regarding the temporary suspension of duty on umbrella frames is once again coming up for review.

It is extremely important that this bill be passed as the survival of the domestic umbrella industry is dependent upon the suspension of the duty on umbrella

frames. We currently produce and/or assemble 400,000 units a year in our plant. Unless we can obtain the raw materials duty free we will not be competitive with umbrella manufacturers overseas. I might add that there are no domestic frame resources and I therefore have no alternative, but to depend upon overseas frame suppliers.

Thank you in advance for helping us rebuild a domestic industry.

Sincerely,

STEVEN WIT, *President.*

H.R. 1546

To suspend for 3 years the duty on secondary butyl chloride

U.S. INTERNATIONAL TRADE COMMISSION

Section-by-section analysis

H.R. 1546, if enacted, would add item 907.55 to the appendix to the Tariff Schedules of the United States (TSUS) to provide for a suspension of the column 1[1] rate of duty for secondary butyl chloride. The column 2[2] rate of duty would not be changed. The duty suspension would be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of the bill, and would be in effect for 3 years.

Background and justification

Description and uses.—Secondary butyl chloride, also called 2-chlorobutane or abbreviated sec-butyl chloride, is a clear liquid with a boiling point of 68° C and a pleasant etheral odor. It is produced by the reaction of secondary butyl alcohol with hydrochloric acid and zinc chloride, or by use of chlorinating agents such as phosphorus trichloride. Both of these processes are very corrosive, so the equipment used must be specially protected to ensure long-term production. The primary use of secondary butyl chloride is in the production of sec-butyllithium, a powerful chemical base and alkylating agent. Sec-butyllithium is in turn used by pharmaceutical and specialty chemical firms in the production of high-value-added chemicals.

Sponsor's justification.—Secondary butyl chloride is not currently produced in the United States, nor is it likely to be in the near future because of the extensive capital investment required, the corrosive materials used in the process, and the risks the producer must take. Downstream products of secondary butyl chloride, notably sec-butyllithium, are produced in the United States, but the production of these products requires the use of imported secondary butyl chloride. Any import duties simply increase the cost of raw materials to domestic producers of the downstream products. The suspension of import duties on secondary butyl chloride would allow domestic firms to compete more effectively with foreign producers of like downstream products.

Comparison with present law

Tariff treatment under the TSUS.—Secondary butyl chloride is classified under TSUS item 429.47, which provides for other chlorinated but not otherwise halogenated hydrocarbons. The column 1 rate of duty is 18 percent ad valorem, and the column 2 rate is 114.5 percent. No separate rate is provided for least developed developing countries (LDDCs)[3] Imports from eligible countries may qualify for the Generalized System of Preferences (GSP).[4] Imports from beneficiary Caribbean

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the LDDC rate of duty column.

[2] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[3] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[4] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984,

Continued

countries may be eligible for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).[5]

The duty rate for this item was reduced from 28.6 percent ad valorem to 18 percent ad valorem in the Tokyo Round of Multilateral Trade Negotiations (MTN). No further staged duty reductions were negotiated.

Tariff treatment under the proposed Harmonized System (HS).—Secondary butyl chloride is classified in Chapter 29 of the proposed HS in the category for other saturated chlorinated derivatives of acyclic hydrocarbons. The following tabulation shows the classifications for this chemical and the duty rates under the proposed HS: [6]

Heading number	Article description	Col. 1 (general)	Col. 2
2903	Halogenated hydrocarbons:		
	Saturated chlorinated derivatives of acyclic hydrocarbons:		
	Other:		
	Other	18 percent	114.5 percent.

Source: USTR, Trade Policy Staff Committee, Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System, Revised, Showing Administrative Changes Approved by the Trade Policy Staff Committee, (September 1984) pg. 29–4.

Structure of the domestic industry

Secondary butyl chloride is not currently produced in the United States. The last known producer of secondary butyl chloride was Aceto Chemicals, Inc., of Flushing, NY, which ceased production in 1979. No new plants are proposed in the United States.

Domestic production

There is currently no domestic production of this product.

U.S. imports

Separate import data for secondary butyl chloride are not available as this chemical is one of many items classified as other chlorinated but not otherwise halogenated hydrocarbons. Imports of secondary butyl chloride are estimated to have remained at a level of about 400,000 pounds, valued at about $500,000, since 1980 (table A). The only known source for imports of this chemical in 1984 was West Germany. No imports were supplied by column 2 sources.

There are only two known importers of secondary butyl chloride. They are Lithium Corporation of America, located in Bessemer City, NC, and Foote Mineral and Chemicals, located in Johnsonville, TN. Both use secondary butyl chloride in the production of sec-butyllithium and purchase from the only known foreign producer, Deutsche Texaco AG Chemie of West German.

U.S. exports

Because there is no domestic production of secondary butyl chloride, exports of this chemical are estimated to have been negligible during the period 1980–84.

---

applies to merchandise imported on or after January 1, 1976, and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[5] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[6] The Harmonized System is intended to serve as a single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 heading and subheading describing articles in trade. These provisions are organized in 96 chapters arranged in 20 section which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system. The table describes the nomenclature structure, and the rates of duty schedules to be in effect on Jan. 1, 1987, if the United States adopts the proposed HS as the basis for the U.S. tariff schedules.

Apparent U.S. consumption

Apparent U.S. consumption is estimated to have been approximately equal to the level of imports during this period 1980–84.

Effect on revenue

If the import quantities and price levels of 1984 remain unchanged, the potential annual loss would amount to approximately $9,000. The quantity of imports of secondary butyl chloride is not expected to increase significantly because of limited demand for the downstream chemical products.

TABLE A.—SECONDARY BUTYL CHLORIDE: U.S. PRODUCTION, EXPORTS OF DOMESTIC MERCHANDISE, IMPORTS FOR CONSUMPTION, AND APPARENT CONSUPTION, 1980–84

[Quantity in thousands of pounds, value in thousands of dollars, unit value in dollars per pound]

Year	U.S. production	Exports [1]	Imports	Apparent consumption	Ratio (percent) of imports to consumption
			Quantity		
1980	0	0	400	400	100
1981	0	0	400	400	100
1982	0	0	400	400	100
1983	0	0	400	400	100
1984	0	0	400	400	100
			Value		
1980			500	500	100
1981			500	500	100
1982			500	500	100
1983			500	500	100
1984			500	500	100
			Unit value		
1980			1.25	1.25	
1981			1.25	1.25	
1982			1.25	1.25	
1983			1.25	1.25	
1984			1.25	1.25	

[1] Estimated to be negligible.

Source: Estimated by the staff of the U.S. International Trade Commission.

U.S. DEPARTMENT OF COMMERCE,
Washington, DC, June 21, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in response to your request for the views of this Department on H.R. 1546, a bill "To suspend for 3 years the duty on secondary butyl chloride."

The Department of Commerce has no objection to the enactment of H.R. 1546.

Enactment of H.R. 1546 would suspend the column 1 (MFN) duty on one chemical included within Tariff Schedules of the United States (TSUS) item 429.47, "chlorinated but not otherwise halogenated hydrocarbons." The column 2 (statutory) duty is not affected by this legislation. Secondary butyl chloride is currently subject to a column 1 (MFN) duty of 18 percent ad valorem. No concession was made on the item during the Tokyo Round of trade negotiations. The item is eligible for duty-free treatment under the U.S. Generalized System of Preferences.

Secondary butyl chloride is made by only one known domestic producer in very small quantities and production does not meet domestic demand. Duty-free treatment will reduce the expenses of U.S. users of this product.

The bill, if enacted as written, would result in a loss of revenue of about $20,000 annually. Enactment of H.R. 1546 would have no impact on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to Congress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS,
General Counsel.

H.R. 1547

To extend for 5 years the existing temporary duty-free treatment of hosiery knitting machines

U.S. DEPARTMENT OF COMMERCE,
Washington, DC, June 21, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in response to your request for the views of this Department on H.R. 1547, a bill "To extend for 5 years the existing temporary duty-free treatment of hosiery knitting machines."

The Department of Commerce has no objection to enactment of H.R. 1547.

H.R. 1547 would extend through September 30, 1990, the current suspension of the column 1 (MFN) duty on imports of single cylinder fine gauge hosiery knitting machines and double cylinder jacquard hosiery knitting machines. The column 2 (statutory) duty remains unaffected by this legislation.

In the absence of this duty suspension, single cylinder fine gauge hosiery knitting machines and double cylinder jacquard hosiery knitting machines would be imported under Tariff Schedules of the United States (TSUS) item 670.16 and 670.18, respectively, at MFN duties of 4.9 and 5.8 percent *ad valorem*, respectively. These duties will be reduced in stages to 4.4 and 5.1 percent *ad valorem*, respectively, by January 1, 1987, as a result of concessions made in the Tokyo Round of trade negotiations. Single cylinder fine gauge hosiery knitting machines and double cylinder jacquard hosiery knitting machines and are eligible for duty-free treatment under the U.S. Generalized System of Preferences.

H.R. 1547 would extend the existing suspension of duties on hosiery knitting machines. Enactment would have no adverse effect on any domestic producer of knitting machinery since domestic manufacturers do not produce either single cylinder fine gauge hosiery knitting machines or double cylinder jacquard hosiery knitting machines. Duty-free importation of this machinery will allow U.S. hosiery producers to compete more effectively with imports. We also expect that the quantity of imports will not increase as a result of the duty-free treatment.

We are unable to calculate the revenue effect of enactment of H.R. 1547 since imports of these types of knitting machines are not reported separately in the U.S. trade statistics. Enactment of H.R. 1547 would have no effect on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to Congress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS,
General Counsel.

STATEMENT OF SID SMITH, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL ASSOCIATION OF HOSIERY MANUFACTURERS

The National Association of Hosiery Manufacturers (NAHM) is a trade association representing the interests of those companies in the United States that produce all types of men's, women's, and children's hosiery. Our members produce and market approximately 85% of all the hosiery items in this country. HAHM Is very pleased to have the opportunity to submit written comments for the record regarding two of the duty suspension bills listed in the Thursday, May 16, 1985 press release and call for comments published by the House Ways and Means Committee. Our specific comments will be organized around the two bills of interests.

H.R. 1547

The purpose of this legislation is to extend for five years existing temporary duty free treatment of certain hosiery knitting machines.

The domestic hosiery manufacturing industry has faced two consecutive years of import growth of over 60% per year. This almost doubling of hosiery imports, on an annual basis, poses an extreme threat to the viability of this domestic industry and the livelihood of its 65,000 employees. This significant growth rate of 60% or more has continued in 1985, as evidenced by the first quarter import statistics. The domestic hosiery industry must be able to increase its productivity in order to compete with these imports.

The majority of all hosiery knitting machines are produced overseas and available to our foreign competitors. Domestic hosiery manufacturers must be in a position to acquire the best, newest technology available worldwide at competitive prices. Because there is no competing domestic industry producing these types of hosiery knitting machines, we have enjoyed the duty free entry of hosiery machines entering the United States for the last three years. To continue our acquisition of new equipment, we need to extend this duty free treatment of hosiery machines.

The members of the NAHM urge support for, and the expeditious passage of, H.R. 1547 for these reasons.

H.R. 2166 (Supersedes H.R. 1548)

The purpose of this legislation is to extend for five years the existing temporary duty free treatment of double headed latch needles.

As stated above, the domestic hosiery manufacturing industry has faced two consecutive years of import growth of over 60% per year, and this almost doubling of hosiery imports, on an annual basis, is continuing into 1985. We have enjoyed and hope to extend the duty free entry of certain hosiery knitting machines that are not available domestically. However, the principal manufacturing component in hosiery machinery is the needles, and double headed latch needles are the primary types of needles used in the equipment noted above.

Since the majority of all hosiery knitting machines are produced overseas, it is also true that the majority of double headed latch needles are also foreign produced and availabble to our competitors. Domestic hosiery manufacturers must be in a position to acquire the best, newest technology available worldwide at competitive prices, including the component parts that go with this machinery. Because there is generally no competing domestic industry producing these types of knitting needles, we have enjoyed the duty free entry of double headed latch needles entering the United States for the last three years. To continue our acquisition of new equipment and the component parts of that equipment, we need to extend this duty free treatment of double headed latch needles.

For these reasons, the NAHM urges support for H.R. 2166 and its expeditious passage.

Once again, NAHM and its member firms appreciate the opportunity to submit these written comments, and hope that our testimony has been beneficial.

H.R. 1566

To ensure payment of the additional duty imposed on ethyl alcohol used as a fuel or in making gasohol

H.R. 1567

To exclude from the Caribbean Basin Economic Recovery Act ethyl alcohol used for fuel which is merely distilled or denatured in a beneficiary country

H.R. 1720

To ensure payment of the regular duties imposed on imported ethyl alcohol and payment of the additional duty imposed on ethyl alcohol when imported for use in producing a mixture of gasoline and alcohol or used otherwise as fuel

See statement of California Farm Bureau Federation, Henry J. Voss, under H.R. 110.

See joint statement of Hon. Ron de Lugo, a Member of Congress from the Virgin Islands; Hon. Fofo I.F. Sunia, a Member of Congress from American Samoa; and Hon. Ben Blaz, a Member of Congress from Guam, under H.R. 2028.

U.S. International Trade Commission

H.R. 1566

Section-by-section analysis

If enacted, H.R. 1566 would amend the article description for item 901.50 in the appendix to the Tariff Schedules of the United States (TSUS) to cover ethyl alcohol (provided for in TSUS item 427.88) or any mixture containing such ethyl alcohol if such ethyl alcohol or mixture is suitable for use as fuel or for use in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as a fuel.

The current item 901.50, which assesses an additional duty of 60 cents per gallon to both column 1 [1] and column 2 [2] imports, only applies to ethyl alcohol imported to be used in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as fuel, or when imported to be used otherwise as fuel. This legislation would extend the additional duties to cover *mixtures* containing ethyl alcohol and to cover ethyl alcohol and mixtures *suitable for use as fuel or in producing fuel* and not merely those that are imported *to be used as fuel.* The bill also provides that the amount of any additional duty collected under item 901.50 would be refunded by the Secretary of the Treasury upon proof that such ethyl alcohol or mixture was not used and can no longer be used as a fuel, or in the production of a mixture of gasoline and alcohol, or a mixture of special fuel and alcohol, which can be used as a fuel. The Secretary of the Treasury would prescribe rules and regulations which could include, but need not be limited to, the fixing of a time limit within

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

whch claims for refund shall be filed and completed, and the designation of the person to whom any refund shall be made. Section 2 of the bill states that the provisions of section 1 would apply to articles entered, or withdrawn from warehouse for consumption, after the 15th day after the date of the enactment of the bill.

Background

Description and uses.—Ethyl alcohol, also referred to as ethanol, is a clear, flammable liquid. It is classified chemically as a monohydric alcohol. Because it is hydrophilic, it usually contains some water that is not distilled from the commercial product. The two commercial grades are absolute ethyl alcohol, which is 100 percent pure, and 190 proof ethyl alcohol, which is 95 percent ethyl alcohol and 5 percent water and other impurities

Ethyl alcohol is produced commercially in the United States using both synthetic and fermentation processes. Synthetic production of ethyl alcohol is accomplished by hydrating ethylene. a basic hydrocarbon, and then distilling the final product. The fermentation process generally used in the United States involves hydrolyzing corn starch and then fermenting the resulting sugars. The Bureau of Alcohol, Tobacco, and Firearms (BATF) controls these processes, and compliance with BATF rules is required. Nonbeverage ethyl alcohol must be denatured by adding chemicals that make it undrinkable. If this is not done, the excise tax on distilled spirits must be paid unless a special exemption has been granted by Congress.

The primary uses of ethly alcohol are: as a raw material in the production of other chemicals such as acetic acid, ethyl acetate, and acetaldehyde; as a solvent; and as an additive in gasoline.

The following tabulation shows the estimated demand for ethyl alcohol, by end use, in 1983: [3]

1983 demand

End use:	*(Percent)*
Fuel	50
Solvent	15
Chemical manufacture	13
Beverages	12
Vinegars	4
miscellaneous	6
Total	100

Purpose.—The proposed legislation is designed to close a loophole which allows ethanol imported as a mixture with gasoline to be entered without paying the additional duty imposed under item 901.50. The bill also is inteneded to prevent importers from avoiding the additional duty by claiming that imported ethanol is for industrial purposes. Under the current law, importers may enter the product without paying the 60 cents per gallon duty, and then take up to 3 years to redeclare its use and pay the duty, if in fact it is used for fuel purposes. This legislation would require payment of the additional duty when the product is entered and provide for a refund if it is not used for fuel purposes.[4]

Prior investigations

The Commission determined on April 8, 1985, in investigation nos. 701-TA-239 (Preliminary) and 731-TA-248 (Preliminary) that there was a reasonable indication that an industry in the United States was threatened with material injury by reason of imports from Brazil of certain ethyl alcohol, provided for in item 427.88 of the Tariff Schedules of the United States and subject to additional duties under TSUS item 901.50, which were alleged to be subsidized by the Government of Brazil and which were alleged to be sold in the United States at less than fair value. The U.S. Department of Commerce is scheduled to make a preliminary determination concerning sales at less than fair value on or before August 5, 1985 and a preliminary determination concerning subsidization in November 1985. The determination of the Commission in these preliminary investigations, together with the information obtained in the investigations is published in USITC Publication 1678, *Certain Ethyl Alcohol from Brazil.*

The Commission instituted investigation no. 332-203, *Possible Effects of and Recommendations Concerning the Proposed Tariff Reclassification of Catalytic Naphtha*

[3] CPI Purchasing, December 1983, p. 21.
[4] 131 Cong. Rec. S. 2507 (daily ed. March 5, 1985) (remarks of Senator Dole).

and Other Motor Fuel Blending Stocks, on December 18, 1984. The final report, issued in April 1985, recommended that a single end-use provision be established for classifying catalytic naphtha and other motor fuel blending stock, and that the language of TSUS item 901.50, imposing additional duties on imports of ethyl alcohol, be modified to cover mixtures of ethyl alcohol and gasoline, and to preclude the provisions of the Foreign Trade Zone Act and the CBERA from preventing the application of item 901.50.

Comparison with present law

Tariff treatment under the TSUS.—Ethyl alcohol for nonbeverage purposes is classified under TSUS item 427.88. The column 1 [5] rate of duty is 3 percent ad valorem. No separate rate is provided for imports from least developed developing countries (LDDCs).[6] The column 2[7] rate is 20 percent ad valorem. Imports under item 427.88 are not eligible for duty-free treatment under the Generalized System of Preferences (GSP).[8] However, imports from beneficiary Caribbean countries may be eligible for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).[9]

The column 1 rate of duty for item 427.88 was staged from 3 cents per gallon to 3 percent ad valorem effective January 1, 1980, during the Tokyo round of Multilateral Trade Negotiations (MTN). No further staged duty reductions were provided for this item.

Ethyl alcohol that is imported to be used in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as fuel, or to be used otherwise as a fuel, is subject to a temporary (through December 31, 1992) additional duty of 60 cents per galion under the provisions of TSUS item 901.50. This additional duty is imposed on both column 1 and column 2 imports.

Tariff treatment under the proposed Harmonized System (HS)[10].—Ethyl alcohol for nonbeverage purposes is classified in Chapter 22 of the proposed HS in item 2207.1060 and item 2207.2000. The tabulation on the following page shows the classifications for this merchandise and the rates of duty under the proposed HS:

---

[5] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries annd areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[6] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[7] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[8] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after Jan. 1, 1976, and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[9] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their ecnomic development and to diversity and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is secheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[10] The Harmonized System is intended to serve as the single modern product nonemclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

Heading No.	Article description	Col. 1 (General)	Col. 2
2207	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 percent volume or higher; ethyl alcohol and other spirits, denatured, of any strength:		
2207.10	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 percent volume or higher:		
2207.1030	For beverage purposes	29.6¢/pf.	$1.32/pf. liter.
2207.1060	For nonbeverage purposes	3%[1]	20%.[1]
2207.2000	Ethyl alcohol and other spirits, denatured, of any strength	3%[1]	20%.[1]

[1]Certain imports of ethyl alcohol are subject to additional duties under subheading 9901.0050.

Source: USTR, Trade Policy Staff Committee. "Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System, Revised, Showing Administrative Changes Approved by the Trade Policy Staff Committee," (September 1984), p. 22–5.

Ethyl alcohol that is imported to be used in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as fuel, or to be used otherwise as a fuel, would be subject to a temporary (through December 31, 1992) additional duty of 13.21 cents per liter under the provisions of HS item 9901.0050.

Structure of the domestic industry

According the the Ad Hoc Committee of Domestic Fuel Ethanol Producers, there are approximately 145 domestic fuel ethanol plants, with an aggregate annual capacity of 840 million gallons of ethanol. The trade press reported production capacities for the fermentation ethanol producers listed on the following pages.

Producers	Location	Capacity (1,000 gallons)
Agri-Energy, Inc	Red Lake Falls, MN	4,000
Agrifood & Fuel Corp	Benkelman, NE	30,000
Agrifuel Refining Corp	New Iberia, LA	35,000
Amber Laboratories	Juneau, WI	10,000
American Agri-Fuels	Clinton, MO	20,000
American Development Corp	Hamburg, IA and Hastings, NE	15,000
American Gasohol Refiners, Inc	Colwich, KS	12,000
Archer-Daniels-Midland	Cedar Rapids, IA and Decatur, and Peoria, IL	310,000
Bio-Alconetics	Hyder AZ	2,000
Central Texas GPI Coop, Inc	Hankinson, ND	50,000
Circle Energy Corp	Garden City, KS	15,000
Clinton Corn Processing Co	Clinton, IA	8,000
D & K Ethanol	Storm Lake, IA	2,000
Dawn Enterprises, Inc	Wallhalla, ND	10,000
Diversified Fuels, Inc	Selma, NC	50,000
Eastern Ethanol Ltd	Lane, SC	20,000
Energy Conversion Corp	Miley, SC	20,000
Enerhol, Ltd	Marysville, MI	10,000
Georgia-Pacific Corp	Bellingham, WA	6,000
Grain Processing Corp	Muscatine, IA	60,000
Gulf Coast Resource, Inc	Keokuk, IA	20,000
Independence Energy Co	Thibodaux, LA	20,000
Kentucky Agricultural Energy Coop	Franklin, KY	21,000
Michigan Sugar Co	Croswell, MI	20,000
Midwest Solvents, Co., Inc	Atchison, KS and Pekin, IL	31,000
Minnesota Alcohol Producers	Mankato, MN	15,000
National Distillery Products Co	Louisville, KY	6,000
Nebraska Alcohol Fuels	Lincoln, NE	10,000
New Energy Corp. of Indiana	South Bend, IN	52,500
New England Ethanol Products	Auburn, ME	25,000
Northwest Processing	Idaho Falls, ID	20,000
Pekin Energy Co	Pekin, IL	60,000
Raven Alcohol Distillery	Selma, CA	10,000
J. R. Simplot Co	Heyburn, ID	3,000
Southeast Energy Group	Woodbine, GA	10,000
South Point Gasohol, Inc	South Point, OH	60,000
A.E. Staley Manufacturing Co	London, TN	60,000

Producers	Location	Capacity (1,000 gallons)
Sunrise Farms, Inc	Boardman, OR	20,000
Third Centry Venure Corp	Kokomo, IN	5,000
Tiger Tail Distillery	Dyersburg, TN	50,000
United Bio-Fuel Industries, Inc	Petersburg, VA	20,000
U.S. Gasohol Corp	Lockeford, CA	9,000
Total		1,236,500

The capacity of the five largest producers accounts for 44 percent of the capacity reported in the trade press. The employment level for the fuel alcohol industry is estimated to be about 6,600 production workers.

Domestic production

U.S. production of completely denatured alcohol[11] increased 360 percent from 1981 to 1982 and by 60 percent from 1982 to 1983. U.S. production of completely denatured alcohol was as shown in the following tabulation, compiled from official statistics of the U.S. Department of the Treasury:

U.S. production

Year:	*(1,000 gallons)*
1979	261
1980	98,363
1981	20,443
1982	93,847
1983	154,297

U.S. imports

Official statistics of the U.S. Department of Commerce show that U.S. imports of fuel-grade ethanol from all sources increased rapidly during 1982–84, from 13.5 million gallons in 1982 to 55.3 million gallons in 1983, and to 74.0 million gallons in 1984. Virtually all such imports were from Brazil. U.S. imports of fuel-grade ethanol were as shown in the following tabulation:

Year	Quantity (1,000 gallons)	Value (1,000 dollars)
1980	0	
1981	4,440	5,834
1982	13,526	14,188
1983	55,267	53,159
1984	74,026	59,552

Brazil supplied 73.8 million gallons of fuel-grade ethanol during 1984. There were no imports from column 2 sources or beneficiary countries of the CBERA.[12]

U.S. exports

There were no exports of fuel-grade ethanol reported during 1982–84.

Apparent U.S. consumption

Apparent U.S. consumption of fuel-grade ethanol increased 330 percent from 1981 to 1982 and 95 percent from 1982 to 1983. The increase in apparent U.S. consumption of fuel-grade ethanol during 1982–84 reflects growth in the new gasaohol market for this product. Apparent U.S. consumption of fuel-grade ethanol, compiled from official statistics, was as shown in the following tabulation:

[11] Ethyl alcohol for nonbeverage use consists of both completely and specially denatured alcohol. The figures shown do not include specially denatured alcohol because it is generally not used as a fuel.

[12] Although there have been no imports from CBERA countries, plants are currently under construction in those countries.

Apparent U.S. consumption

Year:	*(1,000 gallons)*
1980	98,363
1981	24,883
1982	107,373
1983	209,564

The value of apparent U.S. consumption of fuel-grade ethanol is estimated to have been about $306 million in 1983.

Effect on revenue

The requirement that the additional duty imposed under item 901.50 be paid at entry instead of up to 3 years later is expected to make imported ethyl alcohol less competitive than domestically produced merchandise, with a corresponding decrease in the share of the market supplied by imports. However, there is no actual revenue gain or loss associated with just the removal of the three-year bond for the additional duties. Based on 1984 data, the revenue under items 427.88 and 901.50 was $46.1 million. The actual revenue would probably decline since enactment of the proposed legislation is expected to reduce U.S. imports of fuel-grade ethyl alcohol.

The expansion of the article description for item 901.50 to include mixtures is not expected to have an effect on revenue because it is anticipated that such mixtures would not be imported if they were subject to the additional duty imposed under item 901.50.

Technical comments

Section 1(a) of the bill should be amended to read as follows:

(a) The article description for item 901.50 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended to read as follows: "Ethyl alcohol (provided for in item 427.88, part 2D, schedule 4) or any mixture containing such ethyl alcohol is such ethyl alcohol or mixture is suitable for use as fuel or for use in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as a fuel".

Section 2 of the bill should be amended to read as follows:

"SEC. 2. EFFECTIVE DATE.

"The amendment made by section 1(a) of this Act and the provisions of section 1(b) of this Act shall apply to articles entered, or withdrawn from warehouse for consumption, on and after the fifteenth day following the date of enactment of this Act."

GATT considerations

The present duty rate on ethyl alcohol for nonbeverage purposes was bound under Article II of the General Agreement on Tariffs and Trade (GATT). Therefore, since the imposition of an additional duty under TSUS item 901.50 increased the duties above the agreed level, it was considered to be a violation of our agreement. As a consequence, the United States withdrew the concession for "ethyl alcohol when imported to be used in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as a fuel, or when imported to used otherwise as fuel" in 1981. Therefore, to the extent that additional duties are imposed on the above-described product, there is no GATT violation. However, the expansion of the scope of item 901.50 proposed in this bill could be considered a violation and could subject the United States to claims by affected contracting parties.

U.S. International Trade Commission

H.R. 1567

Section-by-section analysis

If enacted, H.R. 1567 would amend subsection 213(a) of the Caribbean Basin Economic recovery Act (19 U.S.C. 2703(a)) (CBERA)[1] to preclude duty-free treatment

[1] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

under that act for ethyl alcohol, provided for in item 427.88 of the Tariff Schedules of the United States (TSUS), and for mixtures containing such ethyl alcohol, which are suitable for use as fuel or for use in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as a fuel, if such merchandise has merely been subjected to distillation or denaturing within a beneficiary country. The amount of additional duties collected under item 901.50 [2] on imports of ethyl alcohol or mixtures would be refunded by the Secretary of the Treasury upon proof that such ethyl alcohol or mixture was not used and can no longer be used as a fuel, or in the production of a mixture of gasoline and alcohol, or a mixture of a special fuel and alcohol, which can be used as a fuel. In addition, the Secretary of the Treasury would refund all other duties paid with respect to any ethyl alcohol or any mixture containing ethyl alcohol if the above-described proof is provided with respect to such ethyl alcohol or mixture, and such ethyl alcohol or mixture would have been provided duty-free treatment under the CBERA but for the amendment to that Act proposed by this legislation. The Secretary of the Treasury would prescribe rules and regulations which could include, but need not be limited to, the fixing of a time limit within which claims for refund shall be filed and completed, and the designation of the person to whom any refund shall be made. The provisions described above would apply to articles entered, or withdrawn from warehouse for consumption, after the 15th day after the date of enactment of the bill. The preclusion from duty-free treatment under the CBERA would only apply to articles entered before January 1, 1993.

Background

Description and uses.—Ethyl alcohol, also referred to as ethanol, is a clear, flammable liquid. It is classified chemically as a monohydric alcohol. Because it is hydrophilic, it usually contains some water that is not distilled from the commercial product. The two commercial grades are absolute ethyl alcohol, which is 100 percent pure, and 190 proof ethyl alcohol, which is 95 percent ethyl alcohol and 5 percent water and other impurities.

Ethyl alcohol is produced commercially in the United States using both synthetic and fermentation processes. Synthetic production of ethyl alcohol is accomplished by hydrating ethylene, a basic hydrocarbon, and then distilling the final product. The fermentation process generally used in the United States involves hydrolyzing corn starch and then fermenting the resulting sugars. The Bureau of Alcohol, Tobacco, and Firearms (BATF) controls these processes, and compliance with BATF rules is required. Nonbeverage ethyl alcohol must be denatured by adding chemicals that make it undrinkable. If this is not done, the excise tax on distilled spirits must be paid unless a special exemption has been granted by Congress.

The primary uses of ethyl alcohol are: as a raw material in the production of other chemicals such as acetic acid, ethyl acetate, and acetaldehyde; as a solvent; and as an additive in gasoline.

The following tabulation shows the estimated demand for ethyl alcohol, by end use, in 1983:[3]

1983 demand

End use:	*(Percent)*
Fuel	50
Solvent	15
Chemical manufacture	13
Beverages	12
Vinegars	4
Miscellaneous	6
Total	100

Purpose.—The proposed legislation is designed to prevent ethyl alcohol which is merely distilled or denatured in a CBERA beneficiary country from receiving duty-free treatment under the CBERA. The enactment of the proposed legislation would preclude duty-free treatment for fuel-grade ethanol and mixtures suitable for use as fuels if the only processing occurring in a beneficiary country was distillation or denaturation.[4]

---

[2] Item 901.50 provides, until December 31, 1992, for the assessment of an additional duty of 60 cents per gallon on ethyl alcohol (provided for in item 427.88, TSUS) imported to be used as fuel.

[3] CPI Purchasing, December 1983, p. 21.

[4] 131 Cong. Rec. S. 2507 (daily ed. March 5, 1985) (remarks of Senator Dole).

Prior investigations

The Commission determined on April 8, 1985, in investigation nos. 701-TA-239 (Preliminary) and 731-TA-248 (Preliminary) that there was a reasonable indication that an industry in the United States was threatened with material injury by reason of imports from Brazil of certain ethyl alcohol, provided for in item 427.88 of the Tariff Schedules of the United States and subject to additional duties under TSUS item 901.50, which were alleged to be subsidized by the Government of Brazil and which were alleged to be sold in the United States at less than fair value. The U.S. Department of Commerce is scheduled to make a preliminary determination concerning sales at less than fair value on or before August 5, 1985 and a preliminary determination concerning subsidization in November 1985. The determination of the Commission in these preliminary investigations, together with the information obtained in the investigations is published in USITC Publication 1678, *Certain Ethyl Alcohol from Brazil.*

The Commission instituted investigation no. 332-203, *Possible Effects of and Recommendations Concerning the Proposed Tariff Reclassification of Catalytic Naphtha and Other Motor Fuel Blending Stocks*, on December 18, 1984. The final report, issued in April 1985, recommended that a single end-use provision be established for classifying catalytic naphtha and other motor fuel blending stock, and that the language of TSUS item 901.50, imposing additional duties on imports of ethyl alcohol, be modified to cover mixtures of ethyl alcohol and gasoline, and to preclude the provisions of the Foreign Trade Zone Act and the CBERA from preventing the application of item 901.50.

Comparison with present law

Tariff treatment under the TSUS.—Ethyl alcohol for nonbeverage purposes is classified under TSUS item 427.88. The Column 1 [5] rate of duty is 3 percent ad valorem. No separate rate is provided for imports from least developed developing countries (LDDCs).[6] The column 2 [7] rate is 20 percent ad valorem. Imports under item 427.88 are not eligible for duty-free treatment under the Generalized System of Preferences (GSP).[8] However, imports from beneficiary Caribbean countries may be eligible for duty-free treatment under the CBERA.

The column 1 rate of duty for item 427.88 was staged from 3 cents per gallon to 3 percent ad valorem effective January 1, 1980, during the Tokyo round of Multilateral Trade Negotiations (MTN). No further staged duty reductions were provided for this item.

Ethyl alcohol that is imported to be used in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as fuel, or to be used otherwise as a fuel, is subject to a temporary (through December 31, 1992) additional duty of 60 cents per gallon under the provisions of TSUS item 901.50. This additional duty is imposed on both column 1 and column 2 imports.

Tariff treatment under the proposed Harmonized System (HS)[9].—Ethyl alcohol for nonbeverage purposes is classified in Chapter 22 of the proposed HS in item

---

[5] The rates of duty in the column numbered 1 are most-favored-nation (MFN) raes and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[6] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[7] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[8] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after Jan. 1, 1976, and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[9] The Harmonized System is intended to serve as the single modern product nonmenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

2207.1060 and item 2207.2000. The tabulation on the following page shows the classifications for this merchandise and the rates of duty under the proposed HS:

Heading No.	Article description	Col. 1 (General)	Col. 2
2207	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 percent volume or higher; ethyl alcohol and other spirits, denatured, of any strength:		
2207.10	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 percent volume or higher:		
2207.1030	For beverage purposes	29.6¢/pf. liter	$1.32/pf. liter.
2207.1060	For nonbeverage purposes	3% [1]	20% [1]
2207.2000	Ethyl alcohol and other spirits, denatured, of any strength	3% [1]	20% [1]

[1] Certain imports of ethyl alcohol are subject to additional duties under subheading 9901.0050.

Source: USTR, Trade Policy Staff Committee, "Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System, Revised, Showing Administrative Changes Approved by the Trade Policy Staff Committee," (September 1984), p. 22-5

Ethyl alcohol that is imported to be used in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as fuel, or to be used otherwise as a fuel, would be subject to a temporary (through Decembe 31, 1992) additional duty of 13.21 cents per liter under the provisions of HS item 9901.0050.

Structure of the domestic industry

According to the Ad Hoc Committee of Domestic Fuel Ethanol Producers, there are approximately 145 domestic fuel ethanol plants, with an aggregate annual capacity of 840 million gallons of ethanol. The trade press reported production capacities for the fermentation ethanol producers listed on the following pages.

Producers	Location	Capacity
Agri-Energy, Inc	Red Lake Falls, MN	4,000
Agrifood & Fuel Corp	Benkelman, NE	30,000
Agrifuel Refining Corp	New Iberia, LA	35,000
Amber Laboratories	Juneau, WI	10,000
American Agri-Fuels	Clinton, MO	20,000
American Development Corp	Hamburg, IA and Hastings, NE	15,000
American Gasohol Refiners, Inc	Colwich, KS	12,000
Archer-Daniels-Midland	Cedar Rapids, IA and Decatur, and Peoria, IL	310,000
Bio-Alconetics	Hyder, AZ	2,000
Central Texas GPI Coop, Inc	Hankinson, ND	50,000
Circle Energy Corp	Garden City, KS	15,000
Clinton Corn Processing Co	Clinton, IA	8,000
D & K Ethanol	Storn Lake, IA	2,000
Dawn Enterprises, Inc	Wallhalla, ND	10,000
Diversified Fuels, Inc	Selma, NC	50,000
Eastern Ethanol Ltd	Lane, SC	20,000
Energy Conversion Corp	Miley, SC	20,000
Enerhol, Ltd	Marysville, MI	10,000
Georgia-Pacific Corp	Bellingham, WA	6,000
Grain Processing Corp	Muscatine, IA	60,000
Gulf Coast Resources, Inc	Keokuk, IA	20,000
Independence Energy Co	Thibodaux, LA	20,000
Kentucky Agricultural Energy Coop	Franklin, KY	21,000
Michigan Sugar Co	Croswell, MI	20,000
Midwest Solvents Co., Inc	Atchison, KS and Pekin, IL	31,000
Minnesota Alcohol Producers	Mankato, MN	15,000
National Distillery Products Co	Louisville, KY	6,000
Nebraska Alcohol Fuels	Lincoln, NE	10,000
New Energy Corp. of Indiana	South Bend, IN	52,500
New England Ethanol Products	Auburn, ME	25,000
Northwest Processing	Idaho Falls, ID	20,000
Pekin Energy Co	Pekin, IL	60,000
Raven Alcohol Distillery	Selma, CA	10,000
J. R. Simplot Co	Heyburn, ID	3,000
Southeast Energy Group	Woodbine, GA	10,000

Producers	Location	Capacity
South Point Gasohol, Inc	South Point, OH	60,000
A.E. Staley Manufacturing Co	London, TN	60,000
Sunrise Farms, Inc	Boardman, OR	20,000
Third Century Venture	Kokomo, IN	5,000
Tiger Tail Distillery	Dyersburg, TN	50,000
United Bio-Fuel Industries, Inc	Petersbury, VA	20,000
U.S. Gasohol Corp	Lockeford, CA	9,000
Total		1,236,500

The capacity of the five largest producers accounts for 44 percent of the capacity reported in the trade press. The employment level for the fuel alcohol industry is estimated to be about 6,600 production workers.

Domestic production

U.S. production of completely denatured alchohol[10] increased 360 percent from 1981 to 1982 and by 60 percent from 1982 to 1983. U.S. production of completely denatured alcohol was as shown in the following tabulation, compiled from official statistics of the U.S. Department of the Treasury:

U.S. production

Year:	*(1,000 gallons)*
1979	261
1980	98,363
1981	20,443
1982	93,847
1983	154,297

U.S. imports

Official statistics of the U.S. Department of Commerce show that U.S. imports of fuel-grade ethanol from all sources increased rapidly during 1982–84, from 13.5 million gallons in 1982 to 55.3 million gallons in 1983, and to 74.0 million gallons in 1984. Virtually all such imports were from Brazil. U.S. imports of fuel-grade ethanol were as shown in the following tablulation:

Year	Quantity (1,000 gallons)	Value (1,000 dollars)
1980	0	
1981	4,440	5,834
1982	13,526	14,188
1983	55,267	53,159
1984	74,026	59,552

Brazil supplied 73.8 million gallons of fuel-grade ethanol during 1984. There were no imports from column 2 sources or beneficiary countries of the CBERA.[11]

U.S. exports

There were no exports of fuel-grade ethanol reported during 1982–84.

[10] Ethyl alcohol for nonbeverage use consists of both completely and specially denatured alcohol. The figures shown do not include specially denatured alcohol because it is generally not used as a fuel.

[11] Although there have been no imports from CBERA countries, plants are currently under construction in those countries. This legislation is intended to preclude imports produced in those plants from duty-free treatment if the product has been merely distilled or denatured in the Caribbean Basin. Generally, in order to qualify for duty-free treatment under the CBERA, an article must be substantially transformed in the Caribbean Basin and at least 35 percent of the appraised value of the final product must be attributable to materials or costs added in the Caribbean Basin. However, up to 15 percent of the added value can come from materials produced in the United States.

Apparent U.S. consumption

Apparent U.S. consumption of fuel-grade ethanol increased 330 percent from 1981 to 1982 and 95 percent from 1982 to 1983. The increase in apparent U.S. consumption of fuel-grade ethanol during 1982-84 reflects growth in the new gasohol market for this product. Apparent U.S. consumption of fuel-grade ethanol, compiled from official statistics, was as shown in the following tabulation:

Apparent U.S. consumption

Year:	*(1,000 gallons)*
1980	98,363
1981	24,883
1982	107,373
1983	209,564

The value of apparent U.S. consumption of fuel-grade ethanol is estimated to have been about $306 million in 1983.

Effect on revenue

There have been no imports of ethyl alcohol for fuel use from beneficiary countries of the CBERA. Therefore, limiting eligibility for duty-free treatment under the CBERA is not expected to have an effect on revenue.[12]

Technical comments

General headnote 3(g)(iii) of the TSUS should be amended to add a new paragraph excluding the subject merchandise frol eligibility for the CBERA. It is not necessary to amend the CBERA itself.

Trade agreements considerations

The Commission has been advised that the United States has made no commitments to Caribbean countries that would prevent us from removing this product from eligibility for the CBERA.

U.S. International Trade Commission

H.R. 1720

Section-by-section analysis

H.R. 1720, if enacted, would amend the article description for item 901.50 in the Appendix to the Tariff Schedules of the United States (TSUS) to cover ethyl alcohol (provided for in TSUS item 427.88) or any mixture containing such ethyl alcohol if such ethyl alcohol or mixture is suitable, or can be made suitable, for use as a fuel or for use in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as a fuel.

The current item 901.50, which assesses an additional duty of 60 cents per gallon to both column 1[1] and column 2[2] imports, only applies to ethyl alcohol imported to be used in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as fuel, or when imported to be used otherwise as fuel. This legislation would extend the additional duties to cover mixtures containing ethyl alcohol and to cover ethyl alcohol and mixtures that are *suitable for use* as a fuel or that *can be made suitable for use* as a fuel, and not merely those that are imported *to be used as fuel.*

The legislation further provides that the amount of any additional duty collected under item 901.50 would be refunded by the Secretary of the Treasury upon proof that the ethyl alcohol or mixture was not used and can no longer be used or be made suitable for use as a fuel or in the production of a mixture of gasoline and alcohol, or a mixture of special fuel and alcohol, which can be used as a fuel. The

---

[12] We are unable to estimate what the effect on revenue might be once the plants in the Caribbean, which are currently under construction, were to begin production.

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

Secretary of the Treasury would prescribed rules and regulations which may include but need not be limited to fixing of a time limit within which claims for refund shall be filed and completed, establishing the necessity for and method of documentation, and designating the person to whom any refund shall be made.

The legislation further proposes that section 213(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)) (CBERA)[3] be amended to preclude duty-free treatment under that Act for ethyl alcohol, provided for in TSUS item 427.88, and for mixtures containing such ethyl alcohol, if they have been merely subjected to distillation, dehydration by molecular sieve, or similar process, denaturing, or blending with other ethyl alcohol and then subjected to such processes within a beneficiary country.

Finally, the bill proposes that general headnote 3(a) to the TSUS be amended by adding an exclusion from coverage for ethyl alcohol or mixtures merely subjected to the processes listed with respect to the exclusion from CBERA coverage.

The legislation has an effective date on or after the fifteenth day after the date of enactment.

Background

Description and uses.—Ethyl alcohol, also referred to as ethanol, is a clear, flammable liquid. It is classified chemically as a monohydric alcohol. Because it is hydrophilic, it usually contains some water that is not distilled from the commercial product. The two commercial grades are absolute ethyl alcohol, which is 100 percent pure, and 190 proof ethyl alcohol, which is 95 percent ethyl alcohol and 5 percent water and other impurities.

Ethyl alcohol is produced commercially in the United States using both synthetic and fermentation processes. Synthetic production of ethyl alcohol is accomplished by hydrating ethylene, a basic hydrocarbon, and then distilling the final product. The fermentation process generally used in the United States involves hydrolyzing corn starch and then fermenting the resulting sugars. The Buureau of Alcohol, Tobacco, and Firearms (BATF) controls these processes, and compliance with BATF rules is required. Nonbeverage ethyl alcohol must be denatured by adding chemicals that make it undrinkable. If this is not done, the excise tax on distilled spirits must be paid unless a special exemption has been granted by Congress.

The primary uses of ethyl alcohol are: as a raw material in the production of other chemicals such as acetic acid, ethyl acetate, and acetaldehyde; as a solvent; and as an additive in gasoline.

The following tabulation shows the estimated demand for ethyl alcohol, by end use, in 1983:[4]

1983 demand

End use:	*(Percent)*
Fuel	50
Solvent	15
Chemical manufacture	13
Beverages	12
Vinegars	4
Miscellaneous	6
Total	100

Purpose.—The proposed legislation is designed to close a loophole which allows ethanol imported as a mixture with gasoline to be entered without paying the additional duty imposed under item 901.50. The bill also is intended to prevent importers from avoiding the additional duty by claiming that imported ethanol is for industrial purposes. Under the current law, importers may enter the product without paying the 60 cents per gallon duty, and then take up to 3 years to redeclare its use and pay the duty, if in fact it is used for fuel purposes. This legislation would require payment of the additional duty when the product is entered and provide for a refund if it is not used for fuel purposes.

---

[3] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after Janaury 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[4] CPI Purchasing, December 1983, p. 21.

The proposed legislation is also designed to prevent ethyl alcohol which is merely distilled, dehydrated, denatured or blended in a CBERA beneficiary country or in a U.S. insular possession from receiving duty-free treatment under the CBERA or general headnote 3(a) of the TSUS.[5]

Prior investigations

The Commission determined on April 8, 1985, in investigation nos. 701-TA-239 (Preliminary) and 731-TA-248 (Preliminary) that there was a reasonable indication that an industry in the United States was threatened with material injury by reason of imports from Brazil of certain ethyl alcohol, provided for in item 427.88 of the Tariff Schedules on the United States and subject to additional duties under TSUS item 901.50, which were alleged to be subsidized by the Government of Brazil and which were alleged to be sold in the United States at less than fair value. The U.S. Department of Commerce is scheduled to make a preliminary determination concerning sales at less than fair value on or before August 5, 1985 and a preliminary determination concerning subsidization in November 1985. The determination of the Commission in these preliminary investigations, together with the information obtained in the investigations is published in USITC Publication 1678, *Certain Ethyl Alcohol from Brazil*.

The Commission instituted investigation no. 332-203, *Possible Effects of and Recommendations Concerning the Proposed Tariff Reclassification of Catalytic Naphtha and Other Motor Fuel Blending Stocks*, on December 18, 1984. The final report, issued in April 1985, recommended that a single end-use provision be established for classifying catalytic naphtha and other motor fuel blending stock, and that the language of TSUS item 901.50, imposing additional duties on imports of ethyl alcohol, be modified to cover mixtures of ethyl alcohol and gasoline, and to preclude the provisions of the Foreign Trade Zone Act and the CBERA from preventing the application of item 901.50.

Comparison with present law

Tariff treatment under the TSUS.—Ethyl alcohol for nonbeverage purposes is classified under TSUS item 427.88. The column[6] rate of duty is 3 percent ad valorem. No separate rate is provided for imports from least developed developing countries (LDDCs).[7] The column 2[8] rate is 20 percent ad valorem. Imports under item 427.88 are not eligible for duty-free treatment under the Generalized System of Preferences (GSP).[9] However, imports from beneficiary Caribbean countries may be eligible for duty-free treatment under the CBERA.

The column 1 rate of duty for item 427.88 was staged from 3 cents per gallon to 3 percent ad valorem effective January 1, 1980, during the Tokyo round of Multilateral Trade Negotiations (MTN). No further staged duty reductions were provided for this item.

Ethyl alcohol that is imported to be used in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as fuel, or to be used otherwise as a fuel, is subject to a temporary (through December 31, 1992) additional duty of 60 cents per gallon under the provisions of TSUS item 901.50. This additional duty is imposed on both column 1 and column 2 imports.

---

[5] 131 Cong. Rec. S. 2507 (daily ed. March 5, 1985) (remarks of Senator Dole).

[6] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[7] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[8] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[9] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade the Tariff Act of 1984, applies to merchandise imported on or after Jan. 1, 1976, and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

Tariff treatment under the proposed Harmonized System (HS) [10].—Ethyl alcohol for nonbeverage purposes is classified in Chapter 22 of the proposed HS in item 2207.1060 and item 2207.2000. The tabulation on the following page shows the classifications for this merchandise and the rates of duty under the proposed HS.

Heading No.	Article description	Col. 1 (General)	Col. 2
2207	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 percent volume or higher; ethyl alcohol and other spirits, denatured, of any strength:		
2207.10	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 percent volume or higher:		
2207.1030	For beverage purposes	29.6¢/pf. liter	$1.32/pf. liter.
2207.1060	For nonbeverage purposes	3% [1]	20%. [1]
2207.2000	Ethyl alcohol and other spirits, denatured, of any strength	3% [1]	20%. [1]

[1] Certain imports of ethyl alcohol are subject to addition duties under subheading 9901.0050.

Source: USTR, Trade Policy Staff Committee, "Coversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System, Revised, Showing Administrative Changes Approved by the Trade Policy Staff Committee," (September 1984), p. 22–5.

Ethyl alcohol that is imported to be used in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as fuel, or to be used otherwise as a fuel, would be subject to a temporary (through December 31, 1992) additional duty of 13.21 cents per liter under the provisions of HS item 9901.0050.

Structure of the domestic industry

According to the Ad Hoc Committee of Domestic Fuel Ethanol Producers, there are apaproximately 145 domestic fuel ethanol plants, with an aggregate annual capacity of 840 million gallons of ethanol. The trade press reported production capacities for the fermentation ethanol producers listed below:

Producers	Location	Capacity (1,000 gallons)
Agri-Energy, Inc	Red Lake Falls, MN	4,000
Agrifood & Fuel Corp	Benkelman, NE	30,000
Agrifuel Refining Corp	New Iberia, LA	35,000
Amber Laboratories	Juneau, WI	10,000
American Agri-Fuels	Clinton, MO	20,000
American Development Corp	Hamburg, IA and Hastings, NE	15,000
American Gasohol Refiners, Inc	Colwich, KS	12,000
Archer-Daniels-Midland	Cear Rapids, IA and Decatur, and Peoria, IL	310,000
Bio-Alconetics	Hyder, AZ	2,000
Central Texas GPI Coop, Inc	Hankinson, ND	50,000
Circle Energy Corp	Garden City, KS	15,000
Clinton Corn Processing Co	Clinton, IA	8,000
D & K Ethanol	Storm Lake, IA	2,000
Dawn Enterprises, Inc	Wallhalla, ND	10,000
Diversified Fuels, Inc	Selma, NC	50,000
Eastern Ethanol Ltd	Lane, SC	20,000
Energy Conversion Corp	Miley, SC	20,000
Enerhol, Ltd	Marysville, MI	10,000
Georgia-Pacific Corp	Bellingham, WA	6,000
Grain Processing Corp	Muscatine, IA	60,000
Gulf Coast Resource, Inc	Keokuk, IA	20,000
Independence Energy Co	Thibodaux, LA	20,000
Kentucky Agricultural Energy Coop	Franklin, KY	21,000
Michigan Sugar Co	Croswell, MI	20,000
Midwest Solvents Co., Inc	Atchinson, KS and Pekin, IL	31,000

[10] The Harmonized System is intended to serve as the single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

Producers	Location	Capacity (1,000 gallons)
Minnesota Alcohol Producers	Mankato, MN	15,000
National Distillery Products Co	Louisville, KY	6,000
Nebraska Alcohol Fuels	Lincoln, NE	10,000
New Energy Corp. of Indiana	South Bend, IN	52,500
New England Ethanol Products	Auburn, NE	25,000
Northwest Processing	Idaho Falls, ID	20,000
Pekin Energy Co	Pekin, IL	60,000
Raven Alcohol Distillery	Selma, CA	10,000
J. R. Simplot Co	Heyburn, ID	3,000
Southeast Energy Group	Woodbine, GA	10,000
South Point Gasohol, Inc	South Point, OH	60,000
A.E. Staley Manufacturing Co	London, TN	60,000
Sunrise Farms, Inc	Boardman, OR	20,000
Third Century Venture Corp	Kokomo, IN	5,000
Tiger Tail Distillery	Dyersburg, TN	50,000
United Bio-Fuel Industries, Inc	Petersburg, VA	20,000
U.S. Gasohol Corp	Lockeford, CA	9,000
Total		1,236,500

The capacity of the five largest producers accounts for 44 percent of the capacity reported in the trade press. The employment level for the fuel alcohol industry is estimated to be about 6,600 production workers.

Domestic production

U.S. production of completely denatured alcohol [11] increased 360 percent from 1981 to 1982 and by 60 percent from 1982 to 1983. U.S. production of completely denatured alcohol was as shown in the following tabulation, compiled from official statistics of the U.S. Department of the Treasury:

U.S. production

Year:	*(1,000 gallons)*
1979	261
1980	98,363
1981	20,443
1982	93,847
1983	154,297

U.S. imports

Official statistics of the U.S. Department of Commerce show that U.S. imports of fuel-grade ethanol from all sources increased rapidly during 1982-84, from 13.5 million gallons in 1982 to 55.3 million gallons in 1983, and to 74.0 million gallons in 1984. Virtually all such imports were from Brazil. U.S. imports of fuel-grade ethanol were as shown in the following tabulation:

Year	Quantity (1,000 gallons)	Value (1,000 dollars)
1980	0	
1981	4,440	5,834
1982	13,526	14,188
1983	55,267	53,159
1984	74,026	59,552

[11] Ethyl alcohol for nonbeverage use consists of both completely and specially denatured alcohol. The figures shown do not include specially denatured alcohol because it is generally not used as a fuel.

Brazil supplied 73.8 million gallons of fuel-grade ethanol during 1984. There were no imports from column 2 sources or beneficiary countries of the CBERA.[12]

U.S. exports

There were no exports of fuel-grade ethanol reported during 1982–84.

Apparent U.S. consumption

Apparent U.S. consumption of fuel-grade ethanol increased 330 percent from 1981 to 1982 and 95 percent from 1982 to 1983. The increase in apparent U.S. consumption of fuel-grade ethanol during 1982–84 reflects growth in the new gasohol market for this product. Apparent U.S. consumption of fuel-grade ehtanol, compiled from official statistics, was as shown in the following tabulation:

Apparent U.S. consumption

Year:	*(1,000 gallons)*
1980	98,363
1981	24,883
1982	107,373
1983	209,564

The value of apparent U.S. consumption of fuel-grade ethanol is estimated to have been about $306 million in 1983.

Effect on revenue

The requirement that the additional duty imposed under item 901.50 be paid at entry instead of up to 3 years later is expected to make imported ethyl alcohol less competitive than domestically produced merchandise, with a corresponding decrease in the share of the market supplied by imports. However, there is no actual revenue gain or loss associated with just the removal of the three-year bond for the additional duties. Based on 1984 data, the revenue under items 427.88 and 901.50 was $46.1 million. The actual revenue would probably decline since enactment of the proposed legislation is expected to reduce U.S. imports of fuel-grade ethyl alcohol.

The expansion of the article description for item 901.50 to include mixtures is not expected to have an effect on revenue because it is anticipated that such mixtures would not be imported if they were subject to the additional duty imposed under item 901.50.

There have been no imports of ethyl alcohol for fuel use from beneficiary countries of the CBERA. Therefore, limiting eligibility for duty-free treatment under the CBERA is not expected to have an effect on revenue.[13]

Technical comments

The "(a)" in line 4 on page 1 of the bill should be deleted. All of the language beginning with line 4 on page 2 through the end of the bill should be stricken and the following inserted in lieu thereof:

SEC. 2. CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

General headnote 3(g)(iii) of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by redesignating (D), (E), (F) and (G) as (E), (F), (G) and (H), respectively, and by adding at the appropriate place the following new paragraph:

"(D) ethyl alcohol, suitable, or which can be made suitable, for use as a fuel or for use in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as a fuel, or any mixture containing such ethyl alcohol (provided for in items 427.88 and 901.50), whcih has only been subjected to one or more of the following processes within a beneficiary country:

(1) distillation, dehydration by molecular sieve, or other similar process (including azeotropic distillation or dehydration to anhydrous ethyl alcohol);

(2) denaturing; or

---

[12] Although there have been no imports from CBERA countries, plants are currently under construction in those countries. This legislation is intended to preclude imports produced in those plants from duty-free treatment if the product has been merely distilled or denatured in the Caribbean Basin. Generally, in order to qualify for duty-free treatment under the CBERA, an article must be substantially transformed in the Caribbean Basin and at least 35 percent of the appraised value of the final product must be attributable to materials or costs added in the Caribbean Basin. However, up to 15 percent of the added value can come from materials produced in the United States.

[13] We are unable to estimate what the effect on revenue might be once the plants in the Caribbean, which are currently under construction, were to begin production.

(3) blending with other ethyl alcohol which is then subjected to the processes described in (1) or (2) of this subparagraph."

SEC. 3. INSULAR POSSESSIONS.

(a) General headnote 3(a)(i) of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting "headnote 2 of schedule 4, part 2, subpart D, headnote 2 of the Appendix, part 1, subpart A," immediately following "Except as provided in".

(b) The headnote to Schedule 4, part 2, subpart D of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by redesignating "Subpart D headnote" as "Subpart D headnotes" and by adding the following new headnote at the end thereof:

"2. Ethyl alcohol, suitable, or which can be made suitable, for use a fuel or for use in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as a fuel (provided for in item 427.88), which is the product of an insular possession of the United States and that has been subjected to only one or more of the following processes within an insular possession, shall be subject to duty under item 427.88:

(a) distillation, dehydration by molecular sieve, or other similar process (including azeotropic distillation or dehydration to anhydrous ethyl alcohol);

(b) denaturing; or

(c) blending with other ethyl alcohol, which is then subjected to the processes described in (a) or (b) of this subparagraph."

(c) The headnotes to the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202), part 1, subpart A are amended by adding the following new headnote at the end thereof: "4. Ethyl alcohol, suitable, or which can be made suitable, for use as a fuel or for use in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as a fuel, or any mixture containing such ethyl alcohol (provided for in item 901.50), which is the product of an insular possession of the United States and that has been subjected to only one or more of the following processes within an insular possession, shall be subject to duty under item 901.50:

(a) distillation, dehydration by molecular sieve, or other similar process (including azeotropic distillation or dehydration to anhydrous ethyl alcohol);

(b) denaturing; or

(c) blending with other ethyl alcohol, which is then subjected to the processes described in (a) or (b) of this subparagraph."

SEC. 4. REFUND OF DUTIES.

(a) The amount of any additional duty provided for in item 901.50 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202), which is paid with respect to any ethyl alcohol or mixture containing ethyl alcohol shall be refunded by the Secretary of the Treasury upon proof that the ethyl alcohol or fixture was not used and can no longer be used or be made suitable for use—

(i) as a fuel, or

(ii) in the production of—

(A) A mixture of gasoline and alcohol, or

(B) A mixture of special fuel and alcohol, which can be used as a fuel.

(b) The amount of any duty provided for in item 427.88 of the Tariff Schedules of the United States (19 U.S.C. 1202), which is paid with respect to any ethyl alcohol suitable, or which can be made suitable, for use as a fuel or for use in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as a fuel shall be refunded by the Secretary of the Treasury if—

(i) the proof required under paragraph (a) is provided with respect to such ethyl alcohol, and

(ii) such ethyl alcohol would have received duty-free treatment under general headnote 3(a) or general headnote 3(g) of the Tariff Schedules of the United States (19 U.S.C. 1202) but for the provisions of this Act.

(c) Allowance of a refund under paragraph (a) or (b) of this subsection shall be subject to compliance with such rules and regulations as the Secretary of the Treasury shall prescribe, which may include, but need not be limited to—

(i) the fixing of a time limit within which a claim for refund under any of the provisions of this subsection shall be filed and completed;

(ii) establishing the method of and documentation necessary for the required proof; and

(iii) the designation of the person to whom any refund shall be made.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act."

GATT considerations

The present duty rate on ethyl alcohol for nonbeverage purposes was bound under Article II of the General Agreement on Tariffs and Trade (GATT). Therefore, since the imposition of an additional duty under TSUS item 901.50 increased the duties above the agreed level, it was considered to be a violation of our agreement. As a consequence, the United States withdrew the concession for "ethyl alcohol when imported to be used in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as a fuel, or when imported to be used otherwise as fuel" in 1981. Therefore, to the extent that additional duties are imposed on the above-described product, there is no GATT violation. However, the expansion of the scope of item 901.50 proposed in this bill could be considered a violation and could subject the United States to claims by affected contracting parties.

The Commission has been advised that the United States has made no commitments to Caribbean countries that would prevent us from removing this product from eligibility for the CBERA.

U.S. DEPARTMENT OF COMMERCE,
Washington, DC, July 8, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Respresentatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on H.R. 1720, a bill to ensure payment of the regular duties imposed on imported ethyl alcohol and payment of the additional duty imposed on ethyl alcohol when imported for use in producing a mixture of gasoline and alcohol or used otherwise as fuel.

The Department opposes enactment of H.R. 1720. Our grounds for opposition are twofold.

First, under the Caribbean Basin Economic Recovery Act, 19 U.S.C. § 2703(a) (the "Act"), ethyl alcohol from beneficiary countries designated by the Act presently enters the United States duty-free (provided it meets other requirements of the Act), regardless of the origins of the alcohol from which the product is upgraded. H.R. 1720 would amend the Act to provide that ethyl alcohol which has been merely upgraded from alcohol originating outside the zone covered by the Act would not be eligible for preferential treatment under the Act. Such ethyl alcohol would be subject, upon entry into the United States, to the duties otherwise applicable to ethyl alcohol. Ethyl alcohol enters the United States under Tariff Schedules of the United States (TSUS) item number 427.88, with a duty of 3% ad valorem. At present, however, and until December 31, 1992, ethyl alcohol imported to be used as fuel or in a fuel mixture enters under Appendix to the TSUS, item number 901.50, with an additional duty of 60 cents per gallon.

Denial of benefits presently available under the Act will undermine its purpose and intent, and will do serious harm to investments already made in the Carribbean Basin. These investments were made after the passage of the Act and in reliance upon a ruling by the U.S. Customs Service that the upgrading of alcohol to fuel grade met the "substantial transformation" requirements contained in the Act.

There are indications that investor confidence in the Caribbean has been shaken by the introduction of this legislation. Caribbean Basin officials are questioning whether the United States intends to raise tariff barriers on other products covered by the Act whenever they might compete with American-made products. The passage of these bills would create a serious precedent for the unraveling of the Caribbean Basin Institute through other legislated duty-reimpositions.

The second basis of our opposition to H.R. 1720 is that the bill would amend the description of item 901.50 of the Appendix to the TSUS to provide that any ethyl alcohol (neat or in a mixture) ". . . that is suitable *or can be made suitable* for use as a fuel" [emphasis added] will be subject to the 60-cent per gallon duty.

This provision would impose a substantial administrative burden on importers and on the U.S. Customs Service, which would have to impose a tariff on large quantities of ethyl alcohol, much of which will not be used as a fuel additive but which nevertheless "can be made suitable" for use as a fuel. The Customs Service would then have to audit subsequent claims that the import was not used for fuel

(or rendered unfit for use as fuel) in order to determine whether a refund of the duty is appropriate. This provision is also objectionable in that it is contrary to the established practice of the Customs Service to examine the constituent elements of motor fuel and impose tariffs on them as if they were imported as distinct and separate elements.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS,
General Counsel.

A.E. STALEY MANUFACTURING CO.,
Decatur, IL, June 27, 1985.

Mr. JOSEPH DOWLEY,
Chief Counsel, House Ways and Means Committee, Washington, DC.

DEAR MR. DOWLEY: This letter is in response to your request for comments on H.R. 1720, a bill to prevent the simple dehydration of 190° proof ethanol from qualifying as a product eligible for special duty free status under the Caribbean Basin Economic Recovery Act (CBERA).

We strongly support this legislation, and offer the following comments in its support.

INTRODUCTION

The Caribbean Basin Economic Recovery Act (CBERA) was enacted by Congress to assist Caribbean nations in developing increased employment and economic growth. The program is designed to meet these ends by developing and promoting industries which substantially transform raw materials from the Caribbean Basin into useful products for importation into the United States and permitting imports of these Caribbean Basin products into the U.S. duty free. In order to qualify for duty free status, products must be substantially transformed and increased in value by 35%. The dehydration of rectified 190° proof ethanol to 200° proof fuel ethanol fails to meet either of these criteria.

FUEL ETHANOL MANUFACTURING AND THE CBERA

Raw materials account for most of the cost of producing fuel ethanol amounting to 60¢ per gallon based on $10 per ton sugar cane. The cultivation, harvesting and delivery of sugar cane accounts for approximately half of the total employment which could be expected in a Caribbean Basin fuel ethanol industry and provides the added advantage of utlizing unskilled agricultural labor.

Typically, manufacturing costs account for another 40–50¢ per gallon and primarily consist of labor, energy and chemical costs. The balance of the cost of producing fuel ethanol consists of transportation, capital-related costs such as debt service, depreciation, taxes and insurance, and profit margin.

The cascading effect of providing goods and services for employees of the fuel ethanol industry multiplies the effect of that industry on economic development. Accordingly, for every one person employed in agricultural and manufacturing jobs related to the fuel ethanol industry, it is generally felt that 2 to 10 additional jobs are created.

THE DIFFERENT TYPES OF ETHANOL MARKETED TODAY

Ethanol is produced both domestically and exported to the United States in hydrated (95% ethanl, 5% water) and anhydrous (100% ethanol) forms. Import records will show that the CIF value of imported hydrated industrial grade ethanol historically has exceeded that of imported anhydrous fuel grade ethanol. The incrementally higher value of hydrated industrial ethanol (5¢ to 10¢ per gallon) is due to the higher quality standards ethanol must meet for use in industrial applications as well as a considerably smaller and more specialized market. Thus, 190° proof wet alcohol meeting industrial standards actually suffers a decrease in value when dehydrated to satisfy fuel standards actually suffers a decrease in value when dehydrated to satisfy fuel standards. Further, the cost to operate an anhydrous column in a modern integrated distillation system is insignificant. The insignificant nature of this cost is reflected by the fact that the industrial market recognizes a price premi-

um for anhydrous industrial grade ethanol which barely offsets the value of the water removed in producing the anhydrous product.

The primary difference between hydrated ethanol and anhydrous ethanol is the difference in water content of approximately 5%. The water in hydrated ethanol is removed by a simple process of (i) passing the hydrated product through a molecular sieve in a small scale operation or (ii) extractive distillation on a larger scale. The primary operating cost in either case is energy with very little labor required or used. Accordingly, any industry or operation which converts hydrated ethanol into anhydrous fuel ethanol creates very little additional manufacturing and employment and provides virtually nothing in the way of agriculture employment.

CURRENT DUTIES AND CARIBBEAN BASIN ETHANOL

Item 901.50 of the Tariff Schedules of the U.S. imposes a 60¢ per gallon duty on imports of anhydrous fuel ethanol. This duty has been established to compensate for the federal excise tax exemption currently granted to gasoline blended with anhydrous fuel ethanol. Since the blended gasoline tax exemption is 6¢ per gallon and gasoline is blended with anhydrous fuel ethanol in a 10-to-1 ratio, anhydrous fuel ethanol enjoys an effective tax advantage of 60¢ per gallon which is designed to offset foreign government subsidies of foreign ethanol producers and promote domestic production in the United States.

Importers of subsidized hydrated ethanol converted in the Caribbean Basin into anhydrous fuel ethanol have a powerful reason to attempt to do so in order to avoid paying the 60¢ per gallon tariff mandated under Section 901.50 of the TSUS. As has been demonstrated, however, the importer contributes nothing to the economic activity of the Caribbean Basin.

Duty free imports of truly native Caribbean Basin ethanol under the CBERA are not opposed by Staley. If, however, subsidized ethanol from other sources is imported into the Caribbean Basin, converted into anhydrous fuel ethanol and then imported duty free into the United States, substantial damage may be suffered by both the legitimate Caribbean Basin and U.S. ethanol industries as a result of unfair advantage enjoyed by the subsidized importer. Furthermore, there can be no assurance that product coming into the Caribbean countries was not anhydrous when received since U.S. customs has no control over said importation; it would be relatively easy to discharge, store and reload anhydrous ethanol destined for the United States duty free under the CBERA without ever processing a drop of this material in any way.

CONCLUSION

Because production of anhydrous fuel ethanol in the Caribbean Basin from subsidized hydrated ethanol produced elsewhere, neither adds substantial value to the hydrated product nor constitutes a significant transformation of the product, it does not qualify for duty free import status. If such status is not denied, it will certainly result in the elimination of any existing or future legitimate Caribbean Basin production of fuel ethanol.

We appreciate this chance to present our comments on this matter and urge consideration of appropriate action to prevent the loss of millions of dollars of tariff revenue and considerable damage to legitimate U.S. domestic and Caribbean Basin producers.

Sincerely yours,

W. ROBERT SCHWANDT,
Vice President and General Manager, Ethanol.

FRIED, FRANK, HARRIS, SHRIVER & JACOBSON,
Washington, DC. June 28, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. DOWLEY: This letter is in response to the May 16, 1985 request by the House Committee on Ways and Means for written comments on certain tariff and trade bills. We address our comments to the legislative proposals contained in H.R. 1567 and Section 2 of H.R. 1720 concerning the exclusion from the Caribbean Basin Economic Recovery Act ("CBERA" or "CBI") of ethyl alcohol (ethanol), which is distilled or denatured in a beneficiary country.

I. PERSONS ON WHOSE BEHALF THESE COMMENTS ARE SUBMITTED

We are counsel for Allied Ethanol and Fuel Corp. Ltd. ("Allied"), a joint venture which is made up of Burton M. Joseph of Minneapolis, Minnesota, Turner Investment Ltd., of Baton Rouge, Louisiana, and J. Ray and Nephew, Ltd., of Kingston, Jamaica. In support of and reliance on CBERA, and on a favorable letter ruling of the United States Customs Service, Allied has committed over $13 million to the construction in Jamaica, a CBERA beneficiary country, of a refining facility for the upgrading by azeotropic distillation of beverage grade alcohol to fuel grade alcohol for importation to the United States. The two bills in question would eliminate CBERA's benefits for this product and frustrate the purpose of the CBI, with a resulting financial loss to the venture and a major setback to the people of Jamaica.

II. SUMMARY OF COMMENTS AND RECOMMENDATIONS

Congress should not adopt the proposals contained in H.R. 1567 and H.R. 1720 for the exclusion of ethanol from the CBI. Fuel grade ethanol distillation facilities constitute precisely the type of capital investment and technical assistance to the Caribbean envisioned by the CBI. Azeotropic distillation of fuel grade ethanol from alcohol feedstock is a complex process requiring large investment and sophisticated engineering—it is clearly a substantial manufacturing operation of the type required by the CBI regulations. Azeotropic distillation is not a pass-through operation or a means for foreign ethanol producers to evade U.S. tariffs.

Domestic producers will not be harmed by Caribbean ethanol imports, as demand for ethanol is likely to increase more rapidly than U.S. producers can expand domestic capacity. Proponents had full opportunity to make proposals for the exclusion of products when the CBERA legislation was pending. Congress made such exclusions as it felt were necessitated or justified by competing national policies. Special interest groups should not now be allowed to force a revision the CBI. Creating new exclusions from CBERA eligibility will undermine the investment incentives created by the CBERA, thus destroying the means by which the purposes of the CBERA are to be implemented, and signal a lack of U.S. commitment to the Caribbean region. We, therefore, urge that Congress reject H.R. 1567 and Section 2 of H.R. 1720.

III. CONGRESS SHOULD NOT EXCLUDE ETHANOL FROM CBERA ELIGIBILITY

Not only is the opening of CBERA for reconsideration of its scope unnecessary, but the exclusion of ethanol distilled in a beneficiary country to fuel grade capabilities from beverage grade alcohol is a particularly unsound proposal.

A. Azeotropic Distillation Facilities Contribute to the Development of the Caribbean in Keeping With the Spirit of the CBERA

The azeotropic distillation facility [1] proposed by our client, and fuel grade ethanol facilities in general, will provide a significant infusion of capital and technical assistance into the Caribbean, and further free trade between the U.S. and the region, in keeping with the purpose of the CBI.[2] Our client's facilities will create a myriad of new jobs and contribute millions of dollars each year to the economy of a major friendly and democratic Caribbean country, as well as provide state-of-the-art technology to the area. Through a new land reform program, the government of Jamaica is making available fifteen to twenty thousand acres for the growing of sugar cane to be used in the production of the raw alcohol feedstock used to manufacture fuel grade ethanol. In addition, the facility will be completely operated by local personnel.

In light of these facts, it is clear that azeotropic distillation is not a pass-through operation of the type prohibited by the CBERA. Complex chemical engineering, which clearly substantially transforms the raw material into a new article of commerce, is a far cry from simply blending, chopping or diluting processes. Thus, these

---

[1] Azeotropic distillation is the commercial method by which 199.5 proof ethanol is manufactured from 150–190 proof alcohol raw material. To transform 150–190 alcohol to 199.5 proof ethanol of fuel grade quality, a chemical entrainer such as benzene must be used to break the bond between water and ethanol (termed as azeotrope) which exists at lower proofs. Simple distillation methods such as boiling can not break this azeotrope. In addition, azeotropic distillation removes harmful chemicals from the alcohol, such as esters and aldehydes.

[2] *See* our June 10, 1985 submission to the Customs Service, attached hereto [retained in committee files], in response to a petition by domestic interested parties in opposition to CBERA treatment for fuel grade ethanol manufactured through azeotropic distillation in a beneficiary country.

facilities will not provide foreign ethanol producers with a means of evading U.S. tariff laws. On the contrary, fuel grade ethanol produced in the Caribbean will be closely monitored by Customs and will comply with U.S. tariff laws in every respect.

Our client has chosen to build its facility in Jamaica based on previous investment experiences in the country and on a strong belief that the present government lead by Prime Minister Seaga deserves the maximum amount of support the U.S. can provide. Jamaica has recently passed through a difficult period in its political and economic development, but it remains a valuable ally in the troubled Caribbean region. Jamaica is ready to work with the United States to achieve mutually beneficial goals, as demonstrated in part by the close working relationship and personal friendship between President Reagan and Prime Minister Seaga. Projects such as the fuel ethanol facility planned by our client contribute to the goals of both the U.S. and Jamaica, as envisioned by the CBI.

B. *Our Client Has Relied on the CBERA and Customs Rulings Issued Interpreting the CBERA*

Our client, attracted by the investment incentives offered by Congress through the CBERA, made plans to invest in an approved Caribbean beneficiary country and obtained a Customs ruling affirming that the azeotropic distillation facility to be constructed meets the requirements set out in the CBERA. The January 18, 1985 letter ruling specifically determined that "the transformation of beverage grade ethanol . . . to motor fuel ethanol through azeotropic distillation in a beneficiary country is substantial enough to make the fuel grade ethanol a product of the beneficiary country for CBERA purposes."

In reliance on the Customs ruling, our client has ordered equipment and machinery, entered into a lease and operating contract, and arranged for the U.S. marketing of the product. In all, some $13 million has been invested and committed by our client for the first year of this project, in reliance on CBERA incentives. It is anticipated that after completion, the project will infuse another $8-9 million a year into the Jamaican economy as payment for goods and services, apart from the economic benefits generated by new agricultural production. The attached submission made on behalf of our client to the Customs Service demonstrates that this project is indeed a substantial and beneficial industrial project, utilizing advanced technologies and drawing substantially upon Jamaican resources.

Other substantial American business people, in addition to our client, have also relied on Customs' interpretation of the CBERA in setting up fuel grade ethanol distillation facilities in the Caribbean. It would be injurious in the extreme for Congress to now reverse itself by excluding ethanol from the CBERA and invalidating these investments at this time. Such a decision would not only injure individual investors, it would undermine CBI.

C. *Congress Should Not Reconsider the Scope of the CBERA*

At the time Congress originally considered passage of the CBERA, it took into account the fears of U.S. industries that duty-free imports might harm certain sectors of the domestic economy. After careful review of industry and labor positions, Congress chose to exempt certain products such as textiles, from CBERA eligibility. Congress did not choose to exclude ethanol from the CBERA, despite the existence of past federal policies aimed at assisting the domestic ethanol industry. Congress was fully aware of these policies, and of domestic fuel needs, at the time it adopted the CBERA. There is no reasons for Congress to reconsider its decision now.

Contrary to their claims, domestic industries will not be harmed by imports of ethanol from the Caribbean. At present, domestic demand for ethanol outstrips domestic production, and with the implementation of the new EPA restrictions on lead in gasoline, the domestic requirement for ethanol could soar from the present 570 million gallons a year to over six billion gallons a year in the next ten years. It is thus clear that there is plenty of room in the U.S. market for both domestic producers and fairly traded imports form the Caribbean.

Congress should not now revisit the decisions it made when it passed the CBERA, as such revision can only undermine the program and send a clear message to our Caribbean friends that the CBERA was merely a gesture, not a real commitment to aiding Caribbean Basin countries. The CBERA will lose its dynamic force if Congress demonstrates its willingness to revise the CBERA every time a domestic special interest opposes entry of a product under the CBERA provisions. No prospective investor will find the CBERA incentives meaningful if there is a fear that benefits once granted could be withdrawn at any time. This is particularly true when a project such as our client, which has complied with every statutory and regulatory requirement, and which so directly furthers the purpose of the CBI, can be derailed by an attack from special interest groups. Clearly, the preferences given to domestic

special interests must be balanced by the needs of our government and other friendly governments in the Caribbean.

III. CONCLUSION

In conclusion, we wish to re-emphasize that H.R. 1567 and H.R. 1720 are not only misguided proposals with respect to the stated purposed, but have a much broader and more generally mischievous impact, threatening the viability of the CBERA itself. These Bills do not simply mollify a domestic industry that imagines it will be injured by Caribbean imports. The provisions for excluding ethanol from the CBERA contained in these bills undermine the purposes of the CBERA, and U.S. commitment to the Caribbean Basin. Congress should not let this happen.

Respectfully submitted,

RICHARD B. BERRYMAN, P.C.
GABRIELLE G. GALLEGOS, Esq.
ALAN KASHDAN, Esq.

(Attachments have been retained in the committee files.)

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, June 28, 1985.

Mr. JOSEPH DOWLEY,
Chief Counselor, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. DOWLEY: The American Farm Bureau Federation, with state organizations in 48 states and Puerto Rico, represents over 3.3 million member families. A vast majority of farmers growing agricultural commodities from which ethanol alcohol is produced are Farm Bureau members.

We do not believe that beverage-grade ethanol transformed to fuel-grade ethanol in Caribbean Basin countries is subjected to a "substantial manufacturing process", and we do not believe that it constitutes a "new or different article of commerce."

This effort to take advantage of the special duty status of Caribbean Basin countries by third countries is simply an attempt to disguise a product produced in those other countries to avoid payment of the 60 cent per gallon duty on ethyl alcohol imported to the United States for use as a fuel. Encouraging establishment of dehydration facilities in the Caribbean under the Customs Service's ruling on ethyl alcohol, is exactly what Congress said it wanted to prevent: "establishment of pass-through operations in which the work performed is of little economic benefit to the Caribbean and constitutes avoidance of U.S. duties."

To exempt the entry of the dehydrated ethanol into the United States from the 60 cents per gallon duty, not only violates the intent of the Caribbean Basin Economic Recovery Act, but also conflicts with U.S. policy and that of many state governments to assist the domestic alcohol fuels industry to become a viable source of energy and to provide an additional domestic market for U.S. agricultural commodities. The development of the ethanol industry has also been determined to be a matter of national security as well as an important part in solving the problem of air pollution from internal combustion engines. The following actions have been taken by the United States and states as direct efforts to achieve the above objectives.

(1) Exemption from federal taxation of 6 cents per gallon for gasohol containing at least 10 percent alcohol.

(2) Exemption from all or part of state fuel taxes on gasohol by 33 of the 50 states.

(3) Special investment tax credits.

(4) Low interest loans, guaranteed by USDA's Farmers' Home Administration and the Department of Energy, totaling several hundred million dollars.

(5) Financing of public and private research and development.

(6) Sale of excess government-held stocks of corn at discounted prices to ethanol-producing plants.

To let the prior decision stand will have a critical, adverse effect on agriculture, both to corn producers and government programs directed at improving farm income and stabilizing the agricultural economy. Imported fuel ethanol has already risen to an annual rate of more than 130 million gallons annually, in spite of the 60 cent per gallon tariff. Imports now exceed 20 percent of domestic demand. Heavily subsidized ethanol, imported at prices substantially below the cost of domestically

produced ethanol, capturing an ever-increasing share of the U.S. fuel market will discourage further development of this country's industry.

In view of the issues involved, we support passage of H.R. 1720 or other bills which would accomplish a speedy resolution of this issue by reintroducing the 60 cent per gallon tariff.

Sincerely,

JOHN C. DATT,
Executive Director, Washington Office.

AMERICAN PETROLEUM INSTITUTE,
Washington, DC, June 28, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The American Petroleum Institute (API) is pleased to respond to the House Ways and Means Subcommittee on Trade's request for comments on miscellaneous tariff and trade bills. API will comment on *H.R. 2354* and *H.R. 2396* concerning the tariff treatment of motor fuel, motor fuel blendstocks and naphthas; and *H.R. 1566, H.R. 1567* and *H.R. 1720* pertaining to ethanol imports. API is a trade association of 230 companies and 6000 individual members who are engaged in all aspects of the petroleum industry including exploration, production, transportation, refining and marketing. Since API's members produce and market a full range of products including both gasoline and gasohol, API and its members have a direct and substantial interest in any legislation which affects the tariff classification of motor fuel, motor fuel blendstocks, naphthas and ethanol.

API supports creating a new category for motor fuel blendstocks in the Tariff Schedules of the United States (TSUS), with a duty rate at least equal to that of motor fuel. In addition, API believes that ethanol imports should not be allowed to enter the United States without being subject to the 60 cents per gallon duty mandated by Congress.

MOTOR FUEL BLENDING STOCKS: H.R. 2354 AND H.R. 2396

Both of these bills strive to clarify the treatment of motor fuel blending stocks in the TSUS. *H.R. 2354* would specifically include these blendstocks in the line item for gasoline and raise the present tariff, while *H.R. 2396* would create a separate listing for motor fuel blendstocks and duty them at the current motor fuel rate of 1.25 cents per gallon.

Because the present tariff schedule does not include a separate listing for motor fuel blendstocks, they have been assessed at a range of different tariffs by customs officials in various ports of entry. This situation has been further complicated by Treasury Decision 83-173, which adopted updated ASTM specifications (D-439-83) for motor fuel and resulted in naphthas with a combined octane rating below 85 for unleaded or below 87 for leaded no longer being defined as motor fuels. Thus, while certain Customs officials assessed cargoes of these blendstocks at the motor fuel tariff rate (1.25 cents per gallon), others dutied them at the lower naphtha rate (.25 cents per gallon), and still others at a higher ad valorem rate.

API believes that the confusion and uncertainty this has caused can be clarified through legislation which would create a new motor fuel blendstock tariff category. As API has stated in previous comments to the International Trade Commission (ITC), we support the creation of a motor fuel blendstock category to be dutied at a rate no lower than the motor fuel rate. As recommended in the April, 1985 ITC report on the tariff classification of catalytic naphtha and other motor fuel blendstocks, this category should be based on the actual end-use of the material, i.e., whether it is blended directly with gasoline or subject to further processing. A tariff rate for blendstocks at least equal to the motor rate is necessary to prevent high-value, high-octane petroleum products, such as catalytic naphtha or reformate, from being imported at the lower duty set for naphthas. Since this material is the result of catalytic processing and is blended directly in gasoline to increase the octane level, it is significantly different from "virgin" naphtha. Any legislation should clearly make this distinction between naphthas used directly as blendstocks in gasoline, and virgin naphthas and petrochemical feedstocks which do require further processing and therefore should receive a lower tariff.

While this new blendstock category should be defined to include those fuel components which are capable of being blended directly into gaoline without further processing, ethanol and gasoline/ethanol blends should be explicitly *excluded* from this

new category. As will be further discussed below, imports of ethanol and gasoline/ethanol blends should not circumvent the special 60 cents per gallon duty Congress mandated for fuel ethanol imports. As written, both *H.R. 2354* and *H.R. 2396* could allow ethanol and gasoline/ethanol blends to enter as "blending stocks" without the 60 cent duty.

ETHANOL IMPORTS: H.R. 1566, H.R. 1567 AND H.R. 1720

API is pleased that legislation has been introduced to address the problem of ethanol imports circumventing the 60 cents per gallon tariff. API is, and has been, concerned that there are a variety of means which ethanol imports can avoid the 60 cent tariff.[1] The above referenced ethanol legislation eliminates some, but not all, of those means.

One way which ethanol can avoid the 60 cent tariff (contained in Item 901.50 TSUS) is by entering the U.S. as gasohol—a blend of gasoline and ethanol—which is then dutied at the 1.25 cents per gallon motor fuel rate. Both *H.R. 1566* and *H.R. 1720* attempt to eliminate this by amending Item 901.50 of the TSUS to include "any mixture containing such ethyl alcohol if such ethyl alcohol or mixture is suitable for use as fuel or for use in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as a fuel." While this language would ensure that ethanol in gasohol does not circumvent the 60 cent tariff, it appears to apply the 60 cent tariff to the whole mixture rather than prorating it on the ethanol portion. Thus, these bills could also require that gasoline containing a small amount of ethanol (e.g., for use as an octane enhancer in unleaded gasoline) be assessed a 60 cents per gallon tariff, not the 1.25 cent motor fuel tariff it should receive.

API believes that any tariff legislation pertaining to gasoline/ethanol blends should be structured and clearly worded to: (1) separately tax the components of the product, i.e. the motor fuel component at the existing duty for motor fuel and the ethanol component at the ethanol duty, and (2) ensure that the appropriate enforcement mechanisms are developed. This same approach should also prevent circumvention of the 60 cent tariff for imports through Foreign Trade Zones, whereby ethanol is blended with gasoline in a Foreign Trade Zone and then enters the U.S. as gasohol receiving the 1.25 cent rate.

Based on current Customs administrative rulings, ethanol imports can also avoid the 60 cent duty by entering the U.S. through Caribbean Basin countries and possibly through insular possessions of the U.S. Of the three above-cited ethanol bills, only *H.R. 1720* addresses both of these concerns.

The U.S. Customs Service recently determined that hydrous alcohol imported to a Caribbean Basin (CB) country and dehydrated through azeotropic distillation to anhydrous alcohol undergoes a substantial transformation and can therefore enter the U.S. duty-free because it qualifies as a new and different article of commerce under the Caribbean Basin Economic Recovery Act (CBERA). Although Customs has solicited comments on its determination (50 FR 14250: April 11, 1985), it is unclear whether Customs will change this practice. Therefore, legislation may well be necessary to prevent this ethanol from receiving duty-free status.

While *H.R. 1567* does provide that ethanol or gasoline/ethanol mixtures are not eligible for duty-free treatment merely by virtue of being distilled or denatured in a CB country, the language amending the CBERA in *H.R. 1720* is more precise. Also, *H.R. 1720*, unlike *H.R. 1567*, would prevent ethanol from circumventing the 60 cent duty by entering the U.S. through an insular possession in a manner similar to that under the CBERA.

In summary, API believes *H.R. 1720* addresses the major concerns regarding the means by which ethanol and gasoline/ethanol blends circumvent the 60 cents per gallon duty on fuel ethanol which were outlined in the ITC report. This bill would clarify that Congress intended to encourage the development of alternative domestic energy sources by subjecting all fuel ethanol imports to the duty in Item 901.50 TSUS. However, API believes that the language in both *H.R. 1566* and *H.R. 1720* is too broad because, as written, "any mixture containing ethyl alcohol" would receive the 60 cents per gallon duty, thus, imposing the ethanol tariff on the entire mixture rather than only on the ethanol component. Finally, API supports creating a separate tariff category for motor fuel blendstocks with a tariff rate no lower than that of motor fuel. Both *H.R. 2354* and *H.R. 2396* address the blendstock issue and set duties equal to or higher than the motor fuel rate, however, they do not explicitly

[1] See attached API comments to the U.S. Customs Service, June 13, 1985.

exclude ethanol as a blendstock and thus may inadvertently create an additional means for ethanol to circumvent the 60 cent tariff.

We thank you for the opportunity to comment on this legislation. If you have any questions or need additional information, please contact Ed Beck in API's Federal Relations Department at 682-8418.

Sincerely,

CHARLES J. DIBONA, *President.*

Attachment.

[Attachment]

AMERICAN PETROLEUM INSTITUTE,
Washington, DC, June 13, 1985.

COMMISSIONER OF CUSTOMS,
Regulations Control Branch, Washington, DC.

DEAR SIR: The American Petroleum Institute appreciates the opportunity to comment on Customs' determination that "beverage grade" ethanol that is transformed into "fuel grade" ethanol in Caribbean Basin countries may qualify for duty-free entry into the United States under the Caribbean Basin Economic Recovery Act (hereafter, CBERA or the Act) 50 *Fed. Reg.* 14250, April 11, 1985. API is a trade association of 230 companies and 6000 individual members who are engaged in all aspects of the petroleum industry including exploration, production, transportation, refining and marketing. Since API's members produce and market not only gasoline, but also, in some cases gasohol, API and its members have a direct and substantial interest in the apparent duty-free classification of fuel ethanol under the CBERA.

The petroleum industry is concerned that the existing tariff structure, as currently applied, presents unwarranted opportunities to frustrate Congressional intent through the avoidance of the present 60 cents per gallon duty on fuel ethanol. The duty on imported fuel ethanol is a balancing component of a multifaceted Congressional effort to encourage the development of the domestic ethanol industry. An important element of that effort was the federal excise tax exemption for gasohol containing at least 10 percent alcohol, which was created by the Energy Tax Act of 1978 (Pub. L. 95-618). Because it was impossible to limit that tax exemption to domestically produced ethanol under applicable trade agreements, Congress imposed an additional tariff on imported ethanol equal to the value of the excise tax exemption. The Crude Oil Windfall Profit Tax Act of 1980 (Pub. L. 96-223). See, S. REP. No. 394, 96th Cong., 2nd Sess. 91, *reported in* [1980] 3 U.S. CODE CONG. & AD. NEWS 410, 500. Regardless of the form used, Congress clearly and unequivocally expressed its intent to encourage the development of the domestic ethanol industry, an industry which has the potential to help reduce the nation's dependence on imported oil through the development of an alternate source of domestic energy.

Although the policy goals of the CBERA are laudable (i.e., to promote economic revitalization and facilitate expansion of economic opportunities in the Caribbean Basin), its reach should be interpreted narrowly when the possible result would be to frustrate such a clear expression of Congressional intent. *Cf. Heaven Hill Distilleries, Inc.* v. *United States*, 476 F. 2d. 1327, 1331 (Ct. Cl. 1973). API believes that the Customs' determinations of January 3 and September 12, 1984, fundamentally misconstrue and misapply the CBERA and its implementing regulations.

Under the CBERA, an article of commerce imported into the U.S. from a beneficiary country is eligible for duty-free entry if: (1) the article is a new or different article of commerce which has been produced in a beneficiary country; and (2) 35% of the cost or value of the materials and related processing of the article was accrued in the beneficiary country. Anhydrous ethanol is not a new or different article of commerce vis-a-vis hydrous ethanol (usually 150-190 proof), and does not meet the eligibility criteria set out under the CBERA.[1] Therefore, it should not be allowed to enter the United States duty-free. Also, since neither anhydrous nor hydrous ethanol undergoes substantial transformation in a beneficiary country, neither their cost nor value can be included in the 35% added value-content requirement of Sec. 2703(a)(1)(B). Thus, neither of the criteria for duty-free entry is fulfilled.

In its January 3, 1984 letter, the Customs Service ruled that anhydrous ethanol produced from hydrous ethanol was a new or different article of commerce. Customs' decision relied on the petitioner's statement of "fact" that hydrous ethanol could not be used as a motor fuel, while anhydrous ethanol could.

---

[1] 19 U.S.C. § 2703(a)(1) and (a)(2).

In order to be a "new or different article of commerce" the new article must have a distinctive name, character or use. *See generally, Anheuser Busch Brew. Asso.* v. *United States,* 207 U.S. 556, 562 (1908). Since modifying the word ethanol with the adjective 'beverage' or 'fuel' does not change the fact that the article of commerce under discussion is still ethanol, the new or distinctive "name" criterion is not met. Moreover, since the molecular composition of anhydrous ethanol is the same as hydrous ethanol, C_2H_5OH, it should be equally clear that the new and different "character" criterion is also unmet. Finally, no new or different use determination is proper, since both anhydrous and hydrous ethanol are potable and can be used as motor fuel.[2] In short, under generally accepted legal principles, anhydrous ethanol is *not* a "new or different article of commerce" vis-a-vis hydrous ethanol.

Even if these general legal requirements were somehow met, anhydrous ethanol still would not be a "new or different article of commerce" for purposes of the CBERA. The Act expressly excludes an article from duty-free treatment by virtue of its merely having undergone "dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article." Section 2703(a)(2)(B). This exclusionary language was added to ensure that the intent behind duty-free treatment under the CBERA (i.e., encouraging economic development and employment opportunities within the Caribbean) would not be frustrated by simple processing which did not contribute to these goals. Here, just the opposite of dilution (i.e., dehydration) is occuring, but the result as far as the CBERA's goals are concerned is the same. Since diluting anhydrous ethanol with water in order to produce hydrous ethanol would clearly *not* result in a "new or different article of commerce" under Sec. 2703(a)(2)(B), so, too, merely dehydrating hydrous ethanol to produce anhydrous ethanol should not result in a new article of commerce entitled to duty-free treatment under CBERA. Accordingly, we believe the Customs Service's January 3 determination is in error.[3]

The September 12, 1984 determination which raises related issues is in error for the same reasons discussed above. At issue in the September determination was whether anhydrous ethanol produced from non-Caribbean hydrous ethanol constituted a "material produced in a beneficiary country" such that the cost or value thereof could be used in meeting the 35% value-content requirement of 2703(a)(1)(B)(i).

Applicable Customs Service regulations implementing the CBERA define "materials produced in a beneficiary country" as referring "to those materials incorporated in an article which are *substantially transformed* in any beneficiary country into *a new or different article of commerce* which is then used in any beneficiary country in the production of a new or different article that is imported directly into the United States" (emphasis added) 19 C.F.R. § 10.196(a)(2). As discussed earlier, anhydrous ethanol is not a new or different article of commerce vis-a-vis hydrous ethanol and, therefore, cannot be deemed a "material produced in a beneficiary country."

As correctly observed by the Customs Service, "substantial transformation" requires that the product by the result of a "substantial manufacturing or processing operation." The Customs' determination that the first stage of distillation (i.e., increasing the proof from 150–190 to 190+) is not a substantial manufacturing process is clearly correct. Similarly, the second stage (i.e., the transformation into anhydrous ethanol) should also fail this test because it is also simple and not substantially different in kind from the first stage of distillation. Thus, anhydrous ethanol produced in the Caribbean does not qualify as a "material produced in a beneficiary country," as defined by Section 2703(a)(1)(B)(i).

As a final basis, a "material produced in a beneficiary country" must also be used in the production of a "new or different article". *See generally, Torrington* v. *United States,* 596 F. Supp. 1083 (Ct. Int. Tr. 1984). Even if the ethanol being imported directly to the U.S. is denatured (i.e., combined with a substance as gasoline to render it not potable), it should not receive duty-free status.

The Act precludes duty-free treatment for an article that becomes a new or different article of commerce "by virtue of having merely undergone simple combining or packaging operations." Sec. 2703(a)(2)(A). Denatured ethanol is clearly the result of a simple combining operation (i.e., denaturing) in a beneficiary country. For this added reason, we believe the Customs' determination is in error.

---

[2] For a more detailed discussion of the use of hydrous versus anhydrous ethanol see the comments submitted by the Kentucky Agricultural Energy Corporation, May 24, 1985, and the petition submitted by William and Connolly.

[3] Even if anhydrous ethanol was a "new or different article of commerce", it is clear that neither its cost nor value could be used to satisfy the 35% added value-content requirement. 19 C.F.R. § 10.196(a) (Example 2).

In conclusion, API believes that Customs' the above-cited determinations are in error and should be changed because dehydration of hydrous ethanol is not a substantial manufacturing process and therefore anhydrous ethanol is not a new or different article of commerce under the CBERA. In addition, the Act's 35% added value-content eligibility criteria for duty-free entry is not met. Therefore, imports of anhydrous ethanol and denatured ethanol should not be allowed to enter the U.S. duty-free under the CBERA and the 60 cents per gallon tariff should apply as Congress intended.

We thank you for the opportunity to comment on this issue. If you have any questions or need additional information, please contact Judy Tillman in API's Federal Agencies Department at 682-8452.

Sincerely,

ARNOLD MOORE.

ASHLAND OIL, INC.,
Ashland, KY, June 28, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, Washington, DC.

DEAR MR. DOWLEY: Ashland Oil is pleased to offer the following comments on a number of miscellaneous tariff bills that your subcommittee presently has under consideration. We understood that you have requested that any input from interested parties be submitted to you on or before June 28.

Ashland's Bob McCowan stated in his oral testimony before Chairman Gibbons' Trade Subcommittee on June 6, the domestic petroleum refining industry is being grievously harmed by the surging levels of gasoline and other light product imports. Despite a worldwide surplus of refining capacity, OPEC nations are still building new refineries with an eye toward the wide open U.S. markets. These new refiners, as well as some older ones in producing nations, are subsidized by the host countries through tax breaks and reduced crude costs, to the extent that refined products are often offered at U.S. ports at prices below "official" or even "spot" crude oil prices from the same nations. As a result, efficient U.S. refining capacity is being forced to shut down at an alarming rate. As a result, today we have less capacity in operation than would be required to process the maximum domestic production plus design drawdown of our Strategic Petroleum Reserve (SPR). Put another way, in an emergency which cut off all petroleum imports, no matter how severe the shortage we couldn't utilize the SPR at design rate. And the situation is only worsening with time. Through the first half of this year, gasoline imports are over 30 percent greater than the same period last year, and more domestic refineries have shut down.

The United States is the only major consuming country with virtually no import barriers on light petroleum products. Japan allows no gasoline imports at all, and the EC has a tariff which effectively limits them. Thus the increasing output from the subsidized international refineries has been and will continue to enter the United States with the resultant loss of domestic capacity, unless some action is taken by the Congress. We applaud the Trade Subcommittee for its expressed concern as to the national security implications of this situation, and your desire to promote the concept of "fair trade" as a condition to "free" trade.

We support *HR 2451,* as introduced by Chairman Gibbons, which would strengthen the international trade laws by making clearer where subsidies actually exist, and offering a remedy for them. This law should serve notice to foreign producers that such subsidies will no longer be tolerated in intenational trade, and should certainly grant long range comfort to domestic businesses. However, by itself it probably can not stem the tide of product imports fast enough nor surely enough to prevent the further demise of a considerable amount of domestic refinery capacity in the short-term, capacity which our nation can ill afford to lose.

Further, and as a timely solution to one of the problems addressed in HR 2451, we support *HR 2354.* In our opinion, HR 2354, which would raise the tariff level on imported gasoline in two volume stages, is needed as a complement to HR 2351 in the short term. With the quick action proposed by this bill, U.S. refiners will respond by keeping open or perhaps even reopening some plants where possible. It would serve as a positive sign that the Congress considers a viable refining industry as an integral part of our national defense posture.

We object to *HR 2396,* because HR 2354 is more responsive legislation to the problem we believe needs solving. HR 2396 will not stem our country's increasing dependence on foreign refineries, although it would indeed serve to clean up some of the confusion surrounding the present tariff structure for gasoline blending stocks.

Perhaps these sections could best be melded into HR 2354. The latter incorporates an "actual use" test which is lacking in HR 2396, and is necessary in our opinion.

Three other bills that your Subcommittee has before it are also very critical to the proper tariff treatment of gasoline and gasoline blending components. Large quantities of ethanol are presently being imported, and through various mechanisms are managing to escape the 60¢/gallon tariff imposed on ethanol imported for fuel use. This has the effect of granting subsidies to foreign grain producers, subsidies which were intended only for U.S. farmers and their surplus stocks in inventory.

HR 1566 would impose the 60¢/gallon tariff on all imports suitable for fuel which contain ethanol, with the provision that the tariff would be rebated upon a showing that the material was *not* used as a fuel component. Ashland Oil heartily endorses this concept.

HR 1567 would close another loophole in the tariff structure which is also being exploited to circumvent the alcohol tariff. It would specifically exclude from the Caribbean Basin Economic Revovery Act any ethanol which has been merely distilled or denatured in a beneficiary county. Congress obviously intended this result in the original act, but a loose interpretation by Customs requires the clarification. At present, hydrous enthanol from outside the Caribbean can be, and is being, "dropped off" in the Caribbean for a simple distillation procedure, then imported into the U.S. duty free under the Caribbean initiative. Ashland has formally complained of this use with both the ITC and the Customs office, and fully supports this legislative action.

HR 1720 would apparently accomplish in a single bill that which is covered under HR 1566 and HR 1567. We would therefore support this single bill as a substitute for HR 1566 and 1567, in that it simplifies the legislative procedure. In our opinion, the prime consideration is that both of these loopholes must be closed as quickly as possible.

We sincerely appreciate the opportunity to offer our comments on your legislative initiatives, and urge your expedited consideration of *HR 2354* and *HR 1720* as critical pieces of legislation.

Sincerely,

WILLIAM E. PERRINE,
Administrative Vice President—Government Relations.

BRANDON, FL, *June 15, 1985.*

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. DOWLEY: Our company for sometime have been associated with Tropicana Energy Company, one of the most consistant and reliable suppliers of fuel grade ethanol. Both H.R. 1576 and H.R. 1720 will result in a substantial reduction of important and necessary supply competition. These bills will have a serious and adverse consequence upon Tropicana's good faith and substantial investment in it's Jamaican production facilities. You are urged to vote against these bills for the following reasons:

1. The Environmental Protection Agency's (E.P.A.) mandatory lead phasedown (.5 grams/gallon July 1, 1985 and .1 grams/gallon January 1, 1986) will result in a shortage of blend materials with high octane values. Ethanol is one important and needed source of octane to replace lead.

2. There has been significant growth in ethanol sales during 1985. In fact, there have been supply interruptions from time to time due to spot shortages. This situation cannot be corrected for several years, if then, because of the long lead time required to construct ethanol production facilities.

3. Ethanol prices have risen substantially and rapidly, particularly during the second quarter of 1985, an obvious and clear relationship to the tightening of supplies and increased demand. Absent the balancing effect of imported ethanol, Congress will be creating huge windfall profits for an unnecessarily protected domestic ethanol industry. This in the long run will hurt the domestic industry because we will not be able to attract customers unless we can assure them of continuous supplies at reasonable prices.

4. The clear intent of Congress by passage of the Caribbean Recovery Act, commonly referred to as the Carribbean Basin Initiative (C.B.I.) was to stimulated investment in these third world nations, provide much-needed jobs, and to create political stability in a region vital to our nation's defense. If special interests are to be

enabled to cause Congress to make exceptions to an important national policy so recently enacted, whenever they see potential competition, then the work of Congress is not good, and the intended benefits of the C.B.I. will be lost.

5. In good faith, and acting exactly as Congress intended when the C.B.I. was created, Tropicana responded to the desire of Congress by making a large investment in Jamaica. To pass either H.R. 1576 or H.R. 1720 would represent an act of bad faith, in violation of the fact, spirit, and intent of the C.B.I., an act contrary to both the national interest, and contrary to those engaged in the marketing of ethanol in the United States.

Sincerely,

[Letters identical to that printed above were received from the following:]

Automated Petroleum Network, Bill McKnight
C & R Distributing, Inc., Sam Roberson
Carse Oil Co., Wayne Atkinson
Chemical Fuels Corporation, Donald G. Doiron
Crown Oil, David L. Miller
Dahlen Transport Co., S.J. Savat
Dalco Distributors Incorporated, Jay M. Wilks
Dubbs, James N.
Erickson Oil Producers, Thomas K. Nielsen
Fireline Petroleum Supply Distribution Company, Inc., John J. Ryan, Jr.
Flash Oil Corporation, Christopher Nemph
Florida Hydrocarbon, John M. Riggs, Jr.
Gateway Petroleum Corp., Leslie P. Raul
Gillen Oil Company, Jerry Kohart
Gornte, Samuel E.
Logan Coal & Supply Co. Inc., Edward H. Beaver, Inc.
Lynch Oil Co., Craig Lynch
Mankato Oil Co., Inc., Steven M. Freyberg
Minnesota Solvents & Chemicals Corp., A.G. Hale
Mr. M Food Stores, David Metzger
Money Oil Company, Inc., Douglas L. Money
Money Saver Oil Co., Jack B. Bivins
Parsons Coal Co., Inc., David C. Heck, Sr.
Petroleum Trades Corp., Michael B. Himes
Pioneer Oil Co., R. Leon McDaniel
Q Petroleum Corporation, James P. Hill
Quick Fill Corporation, H.D. Lark
R.E. Owen Company, Richard E. Owen
Reeder Distributors, Inc., Gary M. Reeder
Rollins Oil Co., John E. Coffey
S & S Petroleum Sales., Inc., Steven Switzer
Seminole Petroleum Co., Inc., Jim W. Alfred
Simms Oil Corporation, Tampa, FL
Southeast Petroleum Products, Inc., Charles R. Tidwell
Switzer Petroleum Products, Inc., E.W. Switzer
T & M Oil Co., Wayne L. Sherman
TAG Chemicals, Inc., Bernard F. Nachtman
United Petroleum, T.D. McRae
W. T. Harvey Oil Co., William T. Harvey
Wilbanks Oil Company, F.G. Wilbanks

BANCO POPULAR DE PUERTO RICO,
June 25, 1985.

Mr. JOSEPH K. DOWLEY
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. DOWLEY: We have recently learned that Tropicana International, Ltd., a Jamaican affiliate of a privately owned U.S. company has been prohibited from exporting its principal product (methanol) to the United States under the duty-free status of the Caribbean Basin Economic Recovery Act (CBERA).

There are currently many potential investors planning operations in the CBI, and the precedent established in the above mentioned case may create a problem of credibility under the overall concept of the current CBI legislation.

Sincerely,

HECTOR LEDESMA, *President.*

EMBASSY OF BARBADOS,
Washington, DC, March 18, 1985.

Congressman DANIEL D. ROSTENKOWSKI,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN ROSTENKOWSKI, We, the undersigned representatives of Caribbean Basin Governments, have learnt of the tabling in the Senate by Senator Dole of Bills 575 and 576 affecting the importation of ethanol from producing countries of the Caribbean Basin.

We are particularly concerned about Bill 576 which would amend the Caribbean Basin Economic Recovery Act (CBERA) by ruling that "no ethyl alcohol . . . shall be eligible for duty free treatment . . . merely by virtue of having been subjected to (a) distillation, (b) denaturing within a beneficiary country."

This Bill would seek to alter the substantial transformation requirements established under the Caribbean Basin Economic Recovery Act for ethanol, by ruling that distillation does not qualify for duty free status. We are concerned about the misunderstanding that apparently exists about the process of distillation. The process of distillation, as distinct from redistillation, does indeed constitute substantial, if not nearly total, transformation, and represents a process of value added well above the 35% stipulated in the original legislation.

We believe that substantial transformation is a fundamental element of the Caribbean Basin Economic Recovery Act in that it ensures not only compliance with U.S. tariff requirements, but also that significant economic benefits will accrue to the Caribbean Basin countries. We therefore see the newly introduced bill as working contrary to the spirit and principle of the Caribbean Basin Economic Recovery Act.

We believe too that once any amendment is made to the concept of substantial transformation or any adjustment is made to override the 35% value added criterion, we run the risk of having the entire Caribbean Basin Economic Recovery Act unravel. As you are well aware, the present trading arrangements covered by the Caribbean Basin Economic Recovery Act are the result of long and difficult discussions among many parties, and represent a delicately balanced compromise. We fear that any attempt to change any one of these arrangements could lead to an unravelling of the entire Caribbean Basin Economic Recovery Act.

We consider that this proposal would seriously damage the present trading and investment prospects of the Caribbean and Central America. The first and most important effect would be the loss of investor confidence. Any investor, whether he be from the U.S.A. or from the region is unlikely to feel encouraged in a situation where concessions established by legislative action are likely to be withdrawn or drastically reduced by subsequent legislative amendment. It creates instability and uncertainty at a time when we badly need just the opposite. Perception is critical, and an investor is more likely to feel that there are possibilities that even if this amendment does not affect his investment at present, the next set of amendments will affect his field of operations, possibly causing him to lose all or the greater part of his investment.

Additionally, were this legislation to go through, other interests representing import sensistive sectors might seek to involve the principle of substantial transformation for the protection of their specific area of concern.

We, the undersigned, commend your interest in the Caribbean Basin Economic Recovery Act and the support you gave to the relevant legislation in the House of Representatives. We therefore appeal to you as one of the strongest supporters of the C.B.I. and a true friend of the Caribbean to weigh very carefully, at such time as this bill is suggested to you, the adverse implications for the present trading arrangements and the economic growth and political stability of the Caribbean region.

Yours sincerely,

Peter D. Laurie, Ambassador of Barbados; Edmund H. Lake, Ambassador of Antigua and Barbuda; Francisco R. Galvez, Jr., Charge d'Affaires a.i. of Belize; Frank Baron, Ambassador of the Commonwealth of Dominica; Carlos Despradel, Ambassador of Dominican Republic;

Albert O. Xavier, Ambassador of Grenada; Adrien L. Raymond, Ambassador of Haiti; Juan Agurcian Ewing, Ambassdor of Honduras; Keith Johnson, Ambassador of Jamaica; Lawrence E. Chewning, Ambassador to Panama; Erstein Edwards, Charge d'Affaires a.i. of St. Christopher and Nevis; Joseph Edsel Edmunds, Ambassador of St. Lucia; James O'Neil-Lewis, Ambassador of Trinidad and Tobago.

[Telegram]

BARBADOS, *June 25, 1985.*

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

Subject to shipments complying with CBI regulations and other relevant U.S. import requirements, CAIC expresses its support for ethanol exports from the Caribbean to U.S.A. continuing to receive duty-free treatment under the Caribbean Basin Recovery Act.

Regards,

P.A. THOMPSON,
Executive Director,
Caribbean Association of Industry and Commerce.

CHICKAMAUGA, GA, *June 26, 1985.*

Hon. RICHARD J. DURBIN,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN DURBIN: Along with my brothers and sisters, I own a small farm located in the heart of your district in Chatham, Illinois where our primary crops are corn and soy beans. We are quite concerned about the falling price of agricultural products and the declining value of our farm land.

However, your proposed House Bill, H.R. 1720, will not protect domestic crop prices and, in reality, could impair the long-term viability of domestic agricultural prices as a source of fuel alcohol (Ethanol). H.R. 1720 attempts to protect domestic prices by requiring that Ethanol imported from the Caribbean Basin pay the 60¢ per gallon import duty on imported Ethanol. However, the recent intent of Congress was that articles imported from the Caribbean Basin should be duty-free. The reason that the Caribbean Recovery Act was passed was to stimulate investment in third world Caribbean nations, provide much needed jobs, and to create political stability in a region vital to our nation's defense.

One might well ask, wouldn't such protectionist legislation, such as H.R. 1720, benefit farmers by keeping imported Ethanol out of the United States? No! Current capacity of domestic Ethanol production is at virtual capacity. H.R. 1720, in the short run, will not benefit farmers, domestic grain prices will not rise because of this legislation, but Ethanol prices will rise, profiting only large domestic producers of Ethanol while raising the cost of alcohol-blended gasoline to the motoring public.

Congressman Durbin, the long-term effects of your proposed legislation, if enacted, could be disastrous to both small farmers, the domestic Ethanol industry, importers of Ethanol, and to the motoring public. As you are well aware, on July 1, 1985, the Environmental Protection Agency's (EPA) mandatory lead phase-down will result in a shortage of unleaded materials with high octane enhancement qualities. Ethanol is only one of several sources (including Methanol and MTBE) of octane needed to replace lead. The passage of H.R 1720 could result in the decline of competition among Ethanol suppliers and a significant switch of the nation's refiners to octane enhancers which do not use agricultural products as their base stock, i.e., Methanol and MTBE.

I applaud your efforts to help the American farmer; however, H.R. 1720 is a protectionist piece of legislation that will not help the small farmer, benefits only domestic producers of Ethanol, while raising the price of blended motor fuels. Congressman Durbin, your efforts could be best directed at expanding the exports of American agricultural products to countries like those located in the Caribbean Basin.

In short, I get the feeling that your philosophy is, "We're from the government and we are here to help you." Please, Congressman Durbin, let free trade and the

marketplace help all Americans, not protectionist legislation that benefits only special interest groups.

Sincerely,

R.W. CARROLL.

COALICION COSTARRICENSE DE INICIATIVAS DE DESARROLLO,
San Jose, Costa Rica, July 3, 1985.

Mr. JOSEPH DOWLEY,
Chief Counsel,
House of Representatives, Washington, DC.

DEAR SIR(S): We have been advised of a bill recently introduced pertaining to the exclusion of ethanol from the Caribbean Basin Initiative eligible products list.

The social and economic repercussion of this modification would be incalculable. Costa Rica has exported and is exporting ethanol 200 proof under the CBI produced from molasses and sugar cane grown 100% in this country. This export, thereby provides important employment benefits for some 30,000 small producers and migratory workers of northern part of our country, a previously underprivileged and underdeveloped region. Costa Rica's long standing democracy is based on these independent and small productive units that through egalitarian distribution have not allowed a concentration of power.

However, should your specific proposition pertain to the exclusion of alcohol produced by drying "wet alcohol" imported from non-CBI beneficiary countries, not only would the CBI countries benefit from this but also the U.S. domestic growers.

We suggest that the necessary ruling be implemented so that the ethanol exported to the U.S. under the CBI be produced only from raw materials grown and produced in beneficiary developing countries.

Yours truly,

HARRY ODIO, *General Manager.*

COCA-COLA INTERAMERICAN CORPORATION,
San José, Costa Rica, July 25, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committtee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. DOWLEY: It has come to our attention that legislation has been introduced by Senator Dole (S. 576) to prohibit Caribbean Basin ethanol from receiving duty-free treatment, currently accorded under the Caribbean Basin Economic Recovery Act.

As you know, the Caribbean Basin Economic Recovery Act is the centerpiece of President Regan's Caribbean Basin Inititative.

We are very concerned with this situation, because based on a ruling from the U.S. Customs Service advising that an ethanol project would the requirements of CBEA and would be eligible for duty-free entry into the U.S., Tropicana International Ltd., a Jamaican affilitate of a privately-owned U.S. company recently constructed a plant to produce ethanol at an approximate cost of $20 MM. The production facility in Kingston, Jamaica, will provide an estimated five million dollars in annual revenue to the Jamaican economy.

If Tropicana is now prohibited from exporting their product from Jamaica to the U.S. under the duty-free status of CBERA, it will be at great financial loss to the Company and Jamaica.

We could also expect that the precedence it will set for future alterations to CBERA will result in much greater loss for the Caribbean.

We wholeheartedly support the Caribbean Basin Economic Recovery Act, and, therefore, request that ethanol continue to receive duty-free treatment under CBERA.

Thanking you in advance for your assistance in this matter.

Respectfully yours,

HEINZ H. HUEBNER,
Vice President and General Manager.

STATEMENT OF BARRETT E. KIDNER, PRESIDENT, CPM ENERGY CORP.

SUMMARY

Issues

Bills pending: HR 1566, 1567, 1720, 2354, and 2396. Measures having major impact on further development of oxygenated fuels, specifically, development of "DuPont Waiver" as an effective alternative to solving pending octane shortfall due to lead phase down.

Prospects

Gasohol, i.e. 1.0% ethanol/90% gasoline blends will not penetrate mid-Atlantic-Northeast U.S. gasoline market due to lack of adequate state tax incentives and cost of overland transport. Longer term, existing gasohol options in the mid-continent states will diminish as state tax incentives are lowered or eliminated. Viability of ethanol as an octane enhancer is dependent on its use in conjuction with other alcohols, primarily methanol. The DuPont Waiver provides the best vehicle for the conversion from straight alcohol/gasoline blends to more sophisticated oxygenated blending components. Access to world market priced ethanol, most notably from Brazil, is required to launch the DuPont Waiver in the high gasoline demand markets of the mid-Atlantic and Northeast coastal regions of the U.S.

Recommendation

Elimination of the existing $.60/gallon tariff on imported ethanol and rejection of any further proposed legislation that attempts to prevent the entry of ethanol from cost effective producing nations by artificially increasing its landed cost.

STATEMENT

Thank you, Mr. Chairman. CPM Energy Corporation appreciates the opportunity to comment on the following trade and tariff bills, specifically HR 1566 and 1567 (Leach, Heftel, et al.); HR 1720 (Durbin, Heftel, Gephart, et al.); HR 2354 (Anthony); and HR 2396 (Matsui).

In submitting this testimony, the principals of CPM Energy Corporation feel that we are in a most unique situation. Four of CPME's principals were intimately involved with the initial efforts of E.I. du Pont de Nemours & Company to obtain EPA approval, and the ultimate marketing of, methanol/cosolvent blends as octane enhancers.

On January 17, 1985, the Environmental Protection Agency (EPA) granted the request by DuPont for a waiver of the prohibitions of Section 211(F) of the Clean Air Act regarding unleaded fuels containing alcohols. This particular alcohol-gasoline formulation is known as the "DuPont Waiver".

Subsequent to the EPA's favorable ruling, DuPont, for a number of business reasons, abandoned its plans to actively promote and market methanol/cosolvent blends to the gasoline refining industry. As a result of DuPont's decision not to commercialize the DuPont waiver, those of us who had been involved with DuPont's prior efforts elected to form CPM Energy Corporation for the primary purpose of carrying on with DuPont's original marketing plans. To the best of our knowledge, CPME is the only organization of its type in the United States.

Because of our size relative to that of DuPont, we have elected to limit our marketing efforts to potential customers located along the mid-Atlantic and Northeastern seaboards. Further, while the DuPont Waiver allows for the use of a variety of C_2 and higher alcohols as a cosolvent with methanol, ethanol, and more specifically, imported ethanol, becomes the cosolvent of choice primarily because of logistics. The deep water terminals located in our major marketing areas are logically served by large ocean vessel parcels. Overland movement of ethanol from the mid-continent domestic alcohol producers is not cost effective.

With the legislated phase down of lead alkyls as octane enhancers, a number of East Coast refiners and blenders are faced with severe octane shortages. The use of oxygenates has been deemed to be an environmentally benign alternative. The current $.60/gallon duty on imported fuel grade ethanol is creating a severe economic obstacle to the development of oxygenates as octane enhancers. Any legislation that eliminates, or further restricts our ability to have access to "market priced" ethanol, is clearly contrary to the stated goals of the United States Congress to decrease our dependence on oil imports from an inherently unstable part of the world.

As previously stated, CPME's primary marketing area is currently limited to a geographic area logical to our base of operations in Wilmington, Delaware. It is not likely, nor does it make any economic sense, that the states within our area of oper-

ations will enact or sustain for an extended period, local tax incentives for ethanol used in motor fuels. For the federal government to continue to maintain one of this nation's highest tariff rates on ethanol, or to attempt to further restrict our access to competitively priced imported ethanol, will severely limit the development of a fundamentally sound octane alternative. The DuPont Waiver is the only currently approved alternative that can be cost effective long term without any tax incentives. To continue to raise barriers to the use of imported ethanol, particularly from Brazil and our other Latin American trading partners, seriously inhibits the introduction and development of the oxygenated fuels program. It is CPME's position that your Committee should not support any legislation that restricts access to competitively priced fuel grade ethanol.

In summary, Mr. Chairman, your Committee has the opportunity to support the development of a very cost effective and environmentally sound alternative to the use of tetra ethyl lead; or, to create artifical barriers to a rational approach to reduce our dependence on foreign crude. Accordingly, I urge that your Committee *not* proceed with HR 1566, 1567, 1720 or 2396. I further urge that your Committee consider the elimination of the current import duty on *all* ethanol used as a motor fuel blending component *with* the restriction to application of the current blender tax credit *only*.

The concerns of the U.S. ethanol industry are acknowledged. Attempts to protect this industry, however, by restricting imported ethanol will not achieve this goal. The viability of that industry to date has been totally tax incentive dependent. Gasohol has been an effective interim position. Longer term utilization of inherently lower cost methanol, in conjunction with ethanol, is the only cost effective alternative. The nation's need for octane blending components far exceeds the domestic alcohol industry's ability to supply. The use of domestic ethanol, in conjunction with methanol, automatically increases the industry's effective capacity three fold and increases ethanol's inherent value. While Brazilian ethanol is logistically cost effective in the U.S. coastal areas, domestic ethanol correspondingly will maintain its mid-continent advantage. Expansion of the ethanol market, not the protection of "turf", should be everyone's objective, since it is clearly in our national interest.

CPM Energy Corporation is committed to the effective and legal introduction of oxygenates under the DuPont Waiver. Access to competitively priced ethanol from cost effective producing countries, such as Brazil and other Caribbean nations, is essential to the success of our efforts.

[Telegram]

DOMINICA, *June 20, 1985.*

Mr. JOESPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

We appeal to your committee to retain duty-free treatment under CBERA for ethanol as this is one of the very few products from a Caribbean raw material which can benefit under the CBERA. We look forward to your consideration and assistance.

PHILLIP NASSIEF,
Dominica Coconut Products Ltd.

FEDERACION DOMINICANA DE COLONOS AZUCAREROS, INC.,
Santo Domingo, R.D., Junio 18, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade #8, Committee on Ways and Means, House of Representatives, Washington, DC.

GENTLEMEN: We refer to announcement of requests for written comments on certain tariffs and trade bills dated Thursday, May 16, 1985, we herewith submit our comments on H.R. 1567 and H.R. 1720.

1.—Federación Dominicana de Colonos Azucareros, Inc. (FEDOCA) is the Federation which groups and represents the interests of all the sugar cane growers of the Dominican Republic. Its members employ over one million persons in the conduct of their business and grow, harvest and supply the totality of the sugar cane of the Dominican Republic.

2.—Members of FEDOCA are currently very advanced in making investments in autonomous distilleries which will process a large portion of the sugar cane of its members into ethyl alcohol for export duty free to the United States fuel ethanol

market, under the benefits of the Caribbean Basin Economic Recovery Act (CBERA), also referred to as the Caribbean basin initiative.

3.—These investments will exceed a total of seventy-five million U.S. dollars.

4.—Other private sector and government entities in the Dominican Republic are also considering important additional investments in the production of ethyl alcohol.

5.—We herewith wish to support Congressman Durbin's bills H.R. 1567 and H.R. 1720, bills that would require that fuel ethanol that is extended duty-free entry into the United States be manufactured at a CBERA qualifying country exclusively from raw materials home grown at a CBERA country, mainly sugar cane.

6.—FEDOCA believes that the U.S. Customs Service has issued erroneous rulings in The Case of Tropicana Petroleum Ltd. and others when the service decided that dehydration by simple azeotropic distillation "substantially transforms" "beverage grade" ethanol into "fuel grade ethanol". Both types of ethanol being nothing more than ethanol, the service having considered both articles different when in reality they are the "same article of commerce" before and after dehydration. Azeotropic dehydration constitutes a very simple process of distillation.

7.—FEDOCA request the immediate revocation of The Tropicana Petroleum Ltd. ruling letter and other similar letters issued in violation of the intent of the writers of the Caribbean basin initiative legislation which intended to extend its benefits to ethanol produced from Caribbean basin home grown raw materials mainly sugar cane. The "grandfathering" of the Jamaica facility and others will invalidate the intent of the CBERA as these operations will commence with almost zero capital investment and employment impact and will be used for the duty-free entry into the United States of enormous quantities of heavily subsidized European and Brazilian ethanol.

8.—The nonrevocation of the ruling letters will have the effect of cancelling FEDOCA's and other Dominican interests plans for investing in these facilities.

We strongly support H.R. 1567 and H.R. 1720 and urge all the members of the subcommittee to support these bills so as to allow for the survival of the benefits of the CBERA, the sugar economy of the region, so important to the internal security and the livelihood of millions of people in the Caribbean basin, which were to be the beneficiaries of the CBERA.

Respectfully yours,

DR. NICOLAS CASANOVAS, *Presidente.*

FERMENTATION ENGINEERING,
Manteca, CA, May 13, 1985.

Mr. SAM M. GIBBONS,
Representative, House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE GIBBONS: This bill [H.R. 1720] would adversely affect my business and projects with significant time and money already spent. It would also adversely effect countries with important economic and security interests to the U.S.: Costa Rica, Dominican Republic, Jamaica, Barbados, etc.

These countries and others in the Central America and Caribbean region view the recently enacted Caribbean Basin Economic Recovery Act (CBERA) as significant to their economies and the Durbin Bill would have a negative impact on this act. If this Bill passes Fuel Ethanol projects my company and others are involved with in this region will be canceled.

I would be pleased to communicate with you further on this issue if you so desire. Thank you for whatever support you can provide in stopping the Durbin Bill.

Sincerely,

GORDON M. ARMSTRONG, *President.*

JUAN A. GRANADOS ETHYL ALCOHOL IMPORTS,
Pompano Beach, FL, April 15, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR CONGRESSMAN GIBBONS: I enjoyed the opportunity of visiting with you at the Miami International Airport last month. It is on one of the subjects that we covered then, that I am writing this letter.

Congressman Durbin has introduced HR 1720 a bill that would amend the Caribbean Basin Economic Recovery Act. This amendment would close the "loopholes" created by the U.S. Customs Service that allows the duty free import of fuel ethyl alcohol "not produced" in the countries of the Caribbean Basin.

I strongly support Congressman Durbin's legislation, and I kindly ask you to support it also.

An incredible series of rulings by the U.S. Customs Service have been issued which, in my opinion, seriously undermine the most important objective and the intent of the Caribbean Basin Economic Recovery Act. These rulings give ethyl alcohol produced in a country other than from the Caribbean Basin, from raw materials that are not from the Caribbean Basin, duty free entrance into the United States. The incredible judgment used by the Custom's Service in arriving at that decision has to do with their interpretation of the "substantial transformation" doctrine. The Customs Service has decided that "substantial transformation" constitutes "dehydrating", that is the taking out of the 5 to 10% water in hydrated or hydrous alcohol which the beneficiaries of the rulings call "beverage alcohol". Ethyl alcohol is ethyl alcohol and the taking out of a small percentage of water by simple distillation or denaturing of alcohol "does not substantially transform" the ethyl alcohol "into a different article of commerce". It remains the same product, that is ethyl alcohol.

You have known of my position regarding duties imposed on ethyl alcohol. The fact is that duties on imports of fuel alcohol are part of the laws of the United States. As such, these duties must be payed on all imports of fuel alcohol, except in that ethyl alcohol used for fuel which is produced in the Caribbean Basin.

I am sure that you are aware of the fragile and precarious state of the societies and the economies of the Caribbean Basin countries. A very important part of their economic activity, employment and source of foreign exchange is derived from the growing, harvesting and transformation of sugar cane. The price of world sugar has declined over the past few years to a low of $0.0375 per pound, the current price. This price has bankrupted the sugar cane growers and producers, and created an unacceptable increase in unemployment in the sector. There are no short term prospects of increases in the price of sugar mainly because of the subsidy policy by the members of the European Economic Community, which have increased their subsidies to the point where they are today very large exporters of sugar.

The transformation of sugar cane into ethyl alcohol and its export "duty free" to the United States fuel market, creates a price equivalent to raw sugar of not less than $0.12 per pound. This is significantly more than the $0.0375 that the world sugar marekt is bringing.

Just about every sugar producer in the Caribbean Basin countries is currently involved in converting part or all of their sugar cane grinding capacity into the production of alcohol. Several are already producing alcohol. Others have already purchased the equipment necessary, and still others are negotiating the purchase of the equipment. The total value of these investments will exceed $500 million during the next 12 months, therefore the production of alcohol in the Caribbean Basin countries and its subsequent export to the United States fuel market "duty free" will be the single most effective investment with the single highest social and economic impact for the region, a consequence of the CBI.

A reverse in the current trend towards the economic, social and political bankruptcy of the region is one of the highest priorities of our national security objectives and the intent of the Caribbean Basin Economic Recovery Act. The Durbin bill strengthens the Caribbean Basin Economic Recovery Act.

I urge you to support the Durbin bill.

Kindest regards,

JUAN A. GRANADOS.

GRAYBILL TERMINALS CO.,
San Diego, CA, June 4, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. DOWLEY: I write on behalf of our company and employees to urge prompt defeat of bills HR 1575 (Leach) and HR 1720 (Durbin) that, if enacted, would severely cripple ethanol supplies on the west coast with the resultant damage to many independent petroleum producers and distributors.

Because there are no major ethanol producers on the west coast, distributors that we serve are dependent on ethanol suppliers from outside the state. U.S. producers have placed severe allocations of supplies to west coast distributors. Brazilian imports have been curtailed because of the impending ITC case brought on by U.S. producers. The only other source for competitive long term supplies is the Caribbean. Imposing a $.60 (60 cent) tariff on Caribbean nation imports would virtually assure a protectionist ethanol monoploy for the midwest producers.

With monopolies, the ultimate loser is the consumer, but in the process, many companies, such as ours, will become casualties to legislative special interests.

Thank you for your consideration.

Very truly yours,

WILLIAM BOEHM, Jr.,
Vice President.

[Telegram]

PORT-AU-PRINCE, HAITI, *June 21, 1985.*

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

This Telex is to express our concern that ethanol continues to receive duty-free treatment under CBERA. We support the position of Tropicana International Ltd. in Jamaica.

CLAUDE LEVY,
Executive Director,
ADIH (Haiti's Manufacturers Association).

[Telegram]

SAN JOSE, COSTA RICA, *June 25, 1985.*

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

We hereby wish to express our concern that ethanol should continue to receive duty free treatment under CBERA.

Sincerely,

WALTER KISSLING,
H. B. Fuller Co.

ILLINOIS FARM BUREAU,
Bloomington, IL, July 1, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, House Ways and Means Committee,
Washington, DC.

DEAR CONGRESSMAN ROSTENKOWSKI: Legislation, H.R. 1720, H.R. 1566 and H.R. 1567, is now pending before the House Ways and Means Committee which would attempt to resolve a problem that has been encountered with fuel ethanol that is being imported via various Caribbean countries. In our opinion, the removal of a small amount of water from beverage grade ethanol to convert it to fuel grade ethanol does not constitute a "substantial manufacturing process" and does not produce a "new or different article of commerce." Clearly, the duty free entry status of fuel grade ethanol from certain Caribbean countries constitutes a loophole which could, through time, render ineffective the 60 cent per gallon duty currently imposed against this product.

The main purpose of the current duty structure as we understand it is to foster the development of a viable domestic ethanol industry. Certain federal and state fuel tax exemptions have also been instituted to assist in reaching this same goal. We believe that allowing the duty free entry that has been established by the Customs department will undermine the total effectiveness of these measures.

For this reason, we would hope that your committee would hold hearings and would favorably report H.R. 1720, which has been introduced by Congressman Dick Durbin from Illinois and H.R. 1566 and H.R. 1567, which have been sponsored by Congressman Leach from Iowa.

We thank you for your interest in this regard.
Sincerely,

JOHN WHITE, JR., *President.*

STATEMENT OF THE GOVERNMENT OF JAMAICA, SUBMITTED BY THOMAS B. EVANS, JR., ATTORNEY, O'CONNOR & HANNAN

SUMMARY

The Government of Jamaica is opposed to H.R. 1566, H.R. 1567 and H.R. 1720 and recommends that the present law remain unchanged.

We are opposed to this legislation for the following reasons:

I. The U.S. Customs Service has correctly ruled that upgrading beverage grade ethanol to motor fuel grade ethanol satisfies the "substantial transformation" requirement for duty-free treatment provided by the Caribbean Basin Economic Recovery Act.

II. The current treatment of ethanol and gasohol in the U.S. Tariff Schedules is correct on all factual and legal grounds.

III. Protectionist actions against ethanol and/or gasohol imports would be contrary to well-established U.S. trade policies and damaging to U.S. foreign relations.

IV. An open and free trade in ethanol and gasohol is important to the health of U.S. industries and the maintenance of a competitive U.S. market.

V. Any distortions which may exist in ethanol or gasohol markets should be remedied by resort to the countervailing duty or antidumping laws and not categorized as tariff increases.

I. The U.S. Customs Service has correctly ruled that upgrading beverage grade ethanol to motor fuel ethanol satisfies the "substantial transformation" requirement for duty-free treatment provided by the Caribbean Basin Economic Recovery Act.

Both H.R. 1567 and H.R. 1720 would exclude from duty-free CBI status "ethyl alcohol which is merely distilled in a beneficiary country." This would reverse a Customs Service ruling which states that upgrading beverage grade ethanol to motor fuel grade ethanol satisfies the "substantial transformation" rules of the CBI under the Caribbean Basin Economic Recovery Act.

In order to satisfy that CBI requirement one article of commerce must be substantially transformed to another new or different article. As the Customs Service acknowledged in its September 12, 1984 ruling, "The original beverage grade ethanol and the produced motor fuel ethanol have different end uses. Beverage ethanol cannot be used as motor fuel because of its high water content, and it is not economically feasible to use motor fuel ethanol for beverage use. Within the trade, motor fuel ethanol is considered to be a different article of commerce which is significantly more valuable than beverage ethanol."

The inescapable logic of the need to maintain separate treatment for products of such distinct technical uses has long been reflected in an application of established customs law, which firmly establishes that primary function or use is a primary basis for *eo nominee* tariff classification. *S & T Imports, Inc. v. United States,* 18 Cust. Ct. 45 (1977); *Trans-Atlantic Company v. United States,* 417 F.2d 1397 (Customs Court, 1973).

II. The current treatment of ethanol and gasohol in the U.S. Tariff Schedules is correct on all factual and legal grounds.

Both H.R. 1566 and H.R. 1720 would amend the description in the U.S. Tariff Schedules, TSUS item 901.50 (ethyl alcohol when imported to be used as fuel) to require that mixtures containing ethanol that are suitable for fuel uses be subject to the 60 cents tariff now placed on fuel grade ethanol. Thus, under this legislation, gasoline and ethanol mixtures which are blended outside of the United States to create gasohol would be subject to the 60 cents per gallon duty, as opposed to the 1.25 cents per gallon duty it currently incurs under its TSUS classification as a "motor fuel" item 475.25.

This Congress would be doing a grave disservice to the integrity of the U.S. trading system to allow an illogical tariff classification to erect a barrier to the importation of gasohol. Any logical and thorough analysis of this proposed reclassification leads to the conclusion that sound customs law could not permit such a result.

It is well settled customs law that the function or use of an article is critically important to the determination of how that item is classified for TSUS purposes, *S & T Imports, Inc. v. United States, supra.* Gasohol is used exclusively as a motor fuel upon importation into the United States. The tariff schedule defines

motor fuel as "any product derived primarily from petroleum, shale or natural gas . . . which is chiefly used as a fuel in internal combustion or other engines." Head note 2(b), Part 10, Schedule 4, TSUS. Gasohol clearly fits within this definition. Since gasohol functions as a motor fuel and gasohol falls clearly within the Custom Service's definition of motor fuels, it defies both logic and sound customs law to argue that gasohol is not classifiable as a motor fuel for TSUS purposes.

III. Protectionist actions against ethanol and/or gasohol imports would be contrary to well-established U.S. trade policies and damaging to U.S. foreign relations.

Ethanol and other fuel blending stocks, as well as gasohol and other energy products generally, are of vital importance to the economies of many developing countries around the world. To both those countries which enjoy rich energy resources as well as those, like Jamaica, which enjoy a geographic location conductive to refining, distilling, blending, or other processing of products en route to the U.S. and other major markets, free trade in those products is integral to economic growth. Indeed, for Jamaica, which has been suffering seriously from sharp declines in global bauxite markets, trade in such products offers a cornerstone for the kind of economic expansion that the U.S. government has been seeking to promote. The records of U.S. foreign policymaking bodies in the Congress, as well as the State Department, the White House, the Office of the U.S. Trade Representative, and the Agency for International Development are replete with statements of the U.S. commitment to promotion of economic growth in the Caribbean and the Latin Americas; the Caribbean Basin Initiative, enacted by the CBERA, is an important manifestation of that commitment. Efforts to categorically restrict imports of gasohol or ethanol would be directly contrary to that commitment.

Under Part IV of the General Agreement on Tariffs and Trade (GATT), moreover, the United States has recognized the particularly urgent need for raising the standard of living in developing countries. To this end, the United States has expressly acknowledged the need to allow such countries to use special measures to promote trade and development and to not impose unfair tariffs and other barriers to trade from such countries. The United States and other developed countries have further assumed commitments to developing countries to: (a) reduce and eliminate barriers to products imported from those countries; (b) show special regard to the trade interests of the developing countries for considering the application of trade restricting measures permitted under the GATT; and (c) explore all possibilities of constructive remedies before applying such measures when they affect the central interests of the developing countries.[1] The maintenance of an open import framework for ethanol and gasohol is integral to those commitments.

IV. An open and free trade in ethanol and gasohol is important to the health of U.S. industries and the maintenance of a competitive U.S. market.

As the basic blending stock of the gasohol industry, ethanol has reached a status of critical importance to many segments of the energy industry and energy consumers. Imports of ethanol have become an important facet of the U.S. market, preserving the competitive environment and providing a base for continued operations of many small refineries.

Structural changes in the energy industry have brought severe economic pressure on small refiners and independent refiners for whom low-priced ethanol imports represent an important way to remain cost-effective through gasohol blending operations. The elimination of the crude oil entitlements program, which for years guaranteed smaller refiners minimum supplies on production of leaded gasoline, have caused further major retrenchments in the industry, involving significant job displacement. If small and independent refiners are going to be able to compete economically with the major refineries, it is important that the free market be permitted to operate to the maximum extent possible, allowing them to take advantage of low cost blending stocks, including ethanol for gasohol blending and octane enhancement.

Maintenance of an open market for fuel ethanol imports is thus of vital importance not only to developing countries such as Jamaica, but to refineries and related industries in the United States. Ultimately, energy consumers, including millions of motor vehicle operators, would pay the final burdensome costs of new restrictions for imports. Imposition of high tariffs and other new measures which would have a protectionist impact would severely restrict U.S. competition and have a negative impact on the U.S. economy as a whole.

---

[1] GATT, Part IV, Articles 36 and 37, I(A); III(c).

To the extent that any pressures may currently exist on domestic gasohol producers due to ethanol or gasohol imports, these pressures will in all likelihood soon disappear in light of the rapidly expanding market for such products. 1984 was a record year for sales of ethanol-gasoline blended fuels; with sales of 5.675 billion gallons in 1984, an increase of 28.1% over the 4.3 billion gallons sold in 1983.[2] The January 14, 1985 EPA approval of the DuPont Clear Air Act waiver, as well as the recent EPA announcement of their acceleration of the lead phase-out program, will result in a doubling of U.S. demand for ethanol through the end of the year.[3] Annual demand for ethanol is anticipated to be as high as 10 billion gallons by 1990, contrasted with a current annual domestic production capacity of only 550 million gallons.[4] Leading producers of ethanol admit that there will not be enough domestic ethanol available for the expected increased demand. According to Peter De Angelis, General Manager, New England Ethanol Products,

"The biggest single drawback to the use of fuel ethanol in this country is the fact that there isn't enough. If one major oil refiner converts completely, to ethanol, the U.S. ethanol industry won't be able to supply it."[5]

Indeed, for this reason, members of the U.S. Congress recently called for reduction of the 60 cents per gallon extraordinary tariff on foreign fuel ethanol.[6] This doubling of demand makes this extraordinary tariff and other actions, including reclassification, which inhibit imports a severe impediment to economic fuel use for industry and consumers alike.

V. Any distortions which may exist in ethanol or gasohol markets should be remedied by resort to the countervailing duty or antidumping laws and not categorized as tariff increases.

To the extent that unfair distortions exist in ethanol or gasohol trade, the remedy should not be through the categorized and harsh measures of increased tariffs but through resort to the import relief law, which is designed to address such distortions. In final analysis, complaints by U.S. producers may well be founded upon the specific natural resource and energy policies of certain foreign governments.

The antidumping and countervailing duty laws were painstakingly drafted by Congress for precisely the purpose of addressing such issues. Proceedings under those laws, not across-the-board increases in tariffs, provide the proper remedy to any trade distortions which may exist.

KENTUCKY AGRICULTURAL ENERGY CORP.,
Franklin, KY, June 26, 1985.

MR. JAMES DOWLEY,
Chief Counsel, House Ways and Means Committee,
Washington, D.C.

DEAR MR. DOWLEY: This letter is in response to the solicitation of comments by the House Ways and Means Committee in regard to proposed legislation to prevent the current abuse of non-qualifying ethanol alcohol entering the United States without paying the tariff duty. (H.R. 1720, H.R. 1566 and H.R. 1567).

The following comments are submitted on behalf of a domestic ethanol alcohol manufacturing plant that contends that the ethanol alcohol imported from several Caribbean Basin countries are currently incorrectly classified under the Caribbean Basin Economic Recovery Act (CBERA) as being eligible for duty-free entry into the United States.

The facts will prove that the removal of water from 150 or 190 proof alcohol to produce 200 proof alcohol is not a substantial manufacturing process and does not produce a new or different article of commerce. Therefore, the duty prescribed for fuel-grade ethanol alcohol in the tariff schedule should be enforced.

Comments will be made in reference to Department of Treasury, Customs Service (Customs) letters dated January 3, 1984, CLA-2, CO:R:CV:DS, 071693TL and September 12, 1984, CLA-2, CO:R:CV:V, 553209HS.

The first statement by the Customs letter to be addressed is the *misconception* that beverage (150-190 proof) ethanol is not usable as motor fuel. The principals involved in requesting the referenced letter rulings should be well aware of the fact

---

[2] *See Alcohol Outlook*, February 1985 at 2.
[3] *See Chemical Engineering*, February 4, 1985 at 11.
[4] *See Chemical Week*, January 30, 1985 at 22.
[5] *Chemical Engineering*, January 21, 1985 at 38.
[6] *See, e.g., Alcohol Week*, February 25, 1985 at 4.

that numerous countries, and specifically Brazil, *fuel millions of vehicles on "beverage grade (hydrous) ethanol".*

According to report [1] by the Brazilian Institute of Alcohol and Sugar (IAA) or Instituto Do Acuczr e Do Alcool which conducted a study projecting the demand for anhydrous (200 proof) ethanol for motor fuel to be 1,670,000,000 liters for 1985 and 1986 and the *demand for hydrous alcohol motor fuel* (beverage grade) to be 6,900,000,000 liters for 1985/1986.

Another report [2] by Dr. David Drake, a Brazilian auto expert, says that Ford do Brasil released production numbers showing that in 1984, 568,214 *hydrous and anhydrous alcohol-burning vehicles* were manufactured, which represents 83.9% of the total new vehicles produced in Brazil.

A government report [3] entitled *"Fuel Alcohol, An Energy Alternative for the 1980's"* states, *"When used as a pure fuel rather than in a blend, alcohol can be less than anhydrous—from 175–190 proof*—and thus can be produced using less energy and at lower cost than can anhydrous alcohol."

In addition to the three reports quoted, there are hundreds of articles and reports published from the late 1970's through 1985 that document that vehicles have been running domestically and abroad on beverage-grade alcohol for years. Most of the pioneer work done in the use of alcohol as a fuel in the United States was done by Henry Ford in the early 1900's. General Motors, Ford, Volkswagen and many other companies currently produce vehicles that run *solely on hydrous ethanol alcohol.*

Therefore, transforming 150–190 proof ethanol to 200 proof ethanol *does not involve a substantial transformation* and *does not change the product's identity* because either grade of alcohol can be used as fuel.

Addressing the statement that processing 150–190 proof ethanol to 200 proof ethanol is a substantial processing operation and a substantial transformation into a distinct new product, goes beyond the bounds of the (CBERA). This transformation is nothing more than a simple process to remove water from a liquid. In this process, the chemical formula of 150–190 proof ethanol ($2C_2H_5OH$) is the same as the chemical formula of 200 proof ethanol) ($2C_2H_5OH$). This information can be found in any high school or college chemistry textbook.[4]

Customs has embarked on an extremely sensitive area by implying that it possesses the technical expertise and knowledge of the alcohol industry to be able to express an opinion on the economic feasibility of different types, (i.e., beverage vs. fuel), of alcohol production. In particular, it has stated that "within the trade, motor fuel ethanol is considered to be a different article of commerce which is significantly more valuable than beverage ethanol". If an economic feasibility study is to be undertaken to prove or disprove these statements, it should also include the economic impact to the U.S. domestic alcohol production facilities that will be threatened by the flood of duty-free ethanol that could enter the U.S. because of the letter rulings that Customs has issued.

The negative economic impact of these ruling could close plants nation-wide with the loss of millions of dollars of revenue and thousands of jobs. An economic feasibility of a "stand-alone" hydrous alcohol to an anhydrous alcohol distillation facility would be extremely hard to compare because there are no known facilities of this type operating today in the United States. However, several domestic alcohol plants *produce both beverage and fuel-grade alcohol from the same equipment.* This fact alone should weigh heavily in the determination that removing water from alcohol on a "stand-alone" basis *is not a processing operation that transforms or produces a new or different article of commerce.*

It would be quite appropriate for Customs to inquire of its two sister organizations in the Department of Treasury, i,e., the Alcohol, Tobacco and Firearms Division and the Internal Revenue Service, for their expertise in alcohols.

Specifically, the following is an excerpt from the Department of Treasury, Bureau of Alcohol, Tobacco and Firearms publication, *Alcohol Fuel and ATF,* Publication #ATFP 5000.2 (8/79):

"The Bureau of Alcohol, Tobacco and Firearms is responsible for administering the laws of the Internal Revenue Code which relates to distilled spirits (alcohols).

---

[1] *Alcohol Update Newsletter,* April 1, 1985, published by Information Resources, Inc. of Washington, DC.

[2] *Alcohol Update Newsletter,* March 18, 1985, published by Information Resources, Inc. of Washington, DC.

[3] Final Report, U.S. National Alcohol Fuels Commission (created by U.S. Congress) Washington, 1981 Library of Congress, Number: 81–65219 ISBN 0–9605762–0–7.

[4] Example: Chemistry of Organic Compounds, by Noller, Library of Congress, Catalog #57–7045.

"Distilled spirits

"The Internal Revenue Code (26 U.S.C., Section 5002) defines distilled spirits as that substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced . . ."

Specifically, the following is an excerpt from the Internal Revenue Code (26 U.S.C., Section 5002 (A) 6:

"Distilled spirits

"(a) GENERAL DEFINITION.—The terms "distilled spirits", "alcoholic spirits", and "spirits" mean that substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include whiskey, brandy, rum, gin, and vodka."

These two references to laws and regulations that have been enacted by Congress and are being enforced by the Department of Treasury, are a contradiction to the Customs' interpretation of alcohol. These definitions clearly state that *alcohol is alcohol* "including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include whiskey, brandy, rum, gin and vodka." (beverage alcohol).

In closing, Congress should enact legislation (H.R. 1720, H.R. 1566, H.R. 1567) to *declare null and void the rulings* issued by the Customs in its letters concerning the eligibility of certain fuel-grade ethanol for duty-free entry under the Caribbean Basis Economic Recovery Act and the Generalization system of Preferences and that 200 proof alcohol imported from a beneficiary country, but derived from 150–190 proof alcohol produced in a non-beneficiary country, is *not eligible for duty free entry* and that 200 proof alcohol *is not a new or different article of commerce* compared with 150 or 190 proof alcohol and that the process by which 200 proof alcohol is produced from 150 to 190 proof alcohol *is not a substantial manufacturing process. The continuing development and possibly the total existence of the United States domestic fuel ethanol industry lies with the consideration of this issue by Congress.*

Sincerely,

JACK N. WADE,
Vice President/Secretary.

MARATHON PETROLEUM CO.,
Findlay, OH, June 27, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR SIR: Marathon supports the objectives of H.R. 1567 which would exclude from the Caribbean Basin Economic Recovery Act ethyl alcohol used for fuel which is merely distilled or denatured in a beneficiary country.

I have enclosed for your consideration our recent letter addressed to the Commissioner of Customs which further details our position on this issue.

Sincerely,

G. N. NICHOLSON,
Vice President, Marketing, United States.

Enclosure.

MARATHON PETROLEUM CO.,
Findlay, OH, June 6, 1985.

Re: Tariff Classification of Certain Fuel-Grade Ethanol.

COMMISSIONER OF CUSTOMS,
U.S. Customs Service,
Washington, DC.

Attn: Regulations Control Branch, Room 2426

DEAR MR. COMMISSIONER: Marathon Petroleum Company is an integrated petroleum refining, transportation and marketing company with facilities located throughout the Great Lakes and Southeastern regions of the United States.

Marathon believes the Customs Service erred in its determination that beverage-grade ethanol produced in a non-beneficiary country which is transformed into fuel-grade ethanol through azeotrophic distillation in a beneficiary country qualifies the ethanol for duty-free entry under the Caribbean Basin Economic Recovery Act.

In Marathon's opinion, the distillation of beverage-grade (approximately 190 proof) ethanol to fuel-grade (199 proof) ethanol does not represent a "substantial

transformation" of the product. This is borne out by the fact that *azeothropic distillation of beverage-grade ethanol does not alter its chemical structure,* but only produces a slight reduction in water content.

Furthermore, the marketplace offers proof that *the distillation of beverage-grade to fuel-grade ethanol fails to satisfy the thirty-five percent (35%) value-added test* referenced in 19 U.S.C. § 2703(a)(1)(B). Price quotes taken from a recent chemical marketing trade publication [1] indicate that 200 proof ethyl alcohol carries only a 12¢ per gallon premium over 190 proof. Since fuel-grade ethanol currently sells in transport-load quantities in the range of $1.45 to $1.70 per gallon (depending on supplier and location), it is clear that the dehydration process (from beverage-grade to fuel-grade) represents less than ten percent (10%) of fuel ethanol's value. Further, the majority of the price differential is attributable to the increased alcohol concentration in the product, as opposed to the value of additional processing.

Ethanol used in motor fuels enjoys substantial federal subsidies. the most notable is the 6¢ per gallon reduction in the federal gasoline tax on "gasohol" (a blend of 10% ethanol and 90% gasoline). Several states offer additional subsidies for ethanol-gasoline blends. The stated intent of these subsidies is to encourage *domestic* ethanol production. Accordingly, the tariff on imported ethanol (item 901.50, TSUS) has been increased in proportion to increases in the federal gasohol subsidy to foster the growth of the domestic ethanol industry. Duty-free entry results in the subsidization of foreign-produced ethanol by the federal government and undermines the objectives of the fuel ethanol tariff.

For these reasons, Marathon believes the Customs Service should reverse its earlier determination on this issue. We believe the arguments detailed above provide ample justification for such action.

Sincerely,

G. N. NICHOLSON,
Vice President, Marketing, United States.

McQUAID'S GAS & OIL,
Niles, OH, June 18, 1985.

COMMITTEE ON WAYS AND MEANS,
House of Representatives,
Washington, DC.

Attn: Mr. Joseph K. Dowley, Chief Counsel.

DEAR MR. DOWLEY: This letter is in regard to two House bills, H.R. 1576 and H.R. 1720, which if passed would create a severe shortage of much needed Ethanol. The ethanol is being used in the E.P.A. lead phase down which must be reduced to .1 gram per gallon by Jan. 1, 1986.

The passing of these bills would be an act of bad faith by Congress because it would render useless the Caribbean Recovery Act, which was recently passed into law. (Jan. 1, 1984). The intent of the Caribbean Recovery Act was to stimulate investment in 3rd world nations in an attempt to create jobs and political stability in areas vital to our nations defense.

Hopefully this is not going to be another example of private interest lobbying taking precedence over the best interests of our nation.

I am a petroleum jobber with many wholesale and retail customers who would be affected by the passage of these bills.

Sincerely,

LOUIS McQUAID.

MIAMI FREE ZONE CORP.,
Miami, FL, June 25, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. DOWLEY: Allow me to take this opportunity to express to you our concern that Ethanol and other eligible articles continue to receive duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).

---

[1] Chemical Marketing Reporter; May 20, 1985; page 37.

Newly proposed legislation by Senator Dole (S. 576), Representative Durbin (H.R. 1720) and Representative Leach (H.R. 1567), now seeks to reclassify Ethanol under CBERA and prohibit its future duty-free status.

In this connection, we are mindful of the clear legislative intent underlying CBERA's passage into law: an American policy commitment to promote the economic advancement, diversification and export earnings of designated Caribbean beneficiary states.

The recognition of our continuing special relationship with the less developed countries in the Basin Region was firmly demonstrated through CBERA's initital effective period of twelve years. With such long term assurances and commitments of continuity clearly defined, major American enterprises have been encouraged to make significant investments in the region's manufacturing infrastructure.

Based upon the mandate of CBERA's provisions and U.S. Customs' Letter Ruling confirming duty-free status to Ethanol, Tropicana International, Ltd., a Jamaican affiliate of a privately owned U.S. company, constructed a twenty million dollar Ethanol production facility in Kingston, Jamaica. The project will provide an estimated five million dollars in annual revenues to the Jamaican economy. If Tropicana is now prohibited from exporting its product from Jamaica to the U.S. under CBERA, it will be at great financial loss to the company and Jamaica. The precedent it will set for future alterations to CBERA will doubtless result in much greater loss for the Caribbean.

Our nation's own best interests have been admirably served through the strategic commercial alliances foreged under CBERA. Efforts to piecemeal dismember the duty-free initiative must be resisted as they will certainly prejudice both the United States and it's partners at our Southern doorstep.

We urge you to preserve intact the letter and intent of CBERA.

Very truly yours,

GERMAN LEIVA, *President.*

NATIONAL CORN GROWERS ASSOCIATION,
Washington, DC, March 28, 1985.

Hon. SAM M. GIBBONS,
House of Representatives, Committee on Ways and Means,
Washington, DC.

DEAR MR. GIBBONS: We have enclosed a copy of our letter to Congressman Dan Rostenkowski, Chairman of the House Committee on Ways and Means, urging immediate consideration and action on two bills introduced by Congressman Leach and Congressman Evans: H.R. 1566 and H.R. 1567. We trust that you will join with us in pressing ahead to close these loopholes in the Tariff Schedules of the United States which allow foreign ethanol import to evade the U.S. import duties.

Sincerely,

MICHAEL L. HALL,
Executive Vice President.

Enclosure.

NATIONAL CORN GROWERS ASSOCIATION,
Washington, DC, March 28, 1985.

Hon. DAN ROSTENKOWSKI,
House of Representatives,
Washington, DC.

DEAR MR. ROSTENKOWSKI: Messrs. Leach and Evans introduced two bills last week to close several loopholes in the Tariff Schedules of the United States which are allowing ethanol imports to evade the U.S. import duties normally levied against such products. They are: H.R. 1566, a bill to ensure the payment of the additional duty imposed on ethyl alcohol used as a fuel or in making gasohol; and H.R. 1567, a bill to exclude from the Caribbean Basin Economic Recovery Act ethyl alcohol used for fuel which is merely distilled or denatured in a beneficiary country.

Our organization urges you as Chairman of the House Committee on Ways and Means to move ahead rapidly on these two bills in order to ensure that the U.S. Customs Service enforce the law in accordance with congressional intent. We will not elaborate on the current flood of ethyl alcohol being posed to enter into the United States because of these loopholes in the Customs Service's interpretation of the law. This situation was well described on page S. 2507 of the *Congressional Record* of March 5, 1985.

If the House of Representatives does not move rapidly to close these loopholes, the domestic ethanol fuels industry will be seriously jeopardized. Such a development would have a tremendously depressing effect on U.S. corn farmers inasmuch as 200 million bushels of corn are currently being processed into ethanol for use in motor fuels. We trust that you and members of your Committee will move expeditiously to safeguard this dometic U.S. market from the heavily subsidized alcohol imports from various foreign countries.

Sincerely,

MICHAEL L. HALL,
Executive Vice President.

STATE OF NEBRASKA,
NEBRASKA GASOHOL COMMITTEE,
Lincoln, NE, June 26, 1985.

JOSEPH DOWLEY,
Chief Counsel, House Ways and Means Committee,
Washington, DC.

DEAR MR. DOWLEY: The Nebraska Gasohol Committee is a state agency responsible for assisting private industry in the development of ethanol plants. Since the circumvention of duties on imported ethanol has hampered our efforts, the Committee wishes to be on record in support of the legislation introduced by Representative Durbin (HR 1720) and Leach (HR 1566 and HR 1567).

The Nebraska Gasohol Committee is directed by legislative statute, to assist private industry efforts to develop grain alcohol production facilities in Nebraska. The rationale for this program, as stated in 1971 legislative statutes, is to develop increased demand for Nebraska agricultural products and increase the value of such products through agri-processing. The importance of new agri-processing industries in agricultural states such as Nebraska is greater now than at any time in recent history.

Demand for ethanol/gasoline blends is substantial in many midwestern states. Nearly 30 percent of the gasoline sold in Nebraska contains ethanol. Markets for ethanol production co-products are also growing rapidly. All the necessary geographic factors for a profitable ethanol industry are also available at many midwestern locations. However, imported ethanol and highly subsidized foreign production facilities and feedstocks continue to be a deterrent to development of many domestic proposed plants. Following are several specific reasons why imported ethanol is having an adverse impact on new and proposed ethanol plants:

(1) The rapid increase in imported ethanol (5 million gallons in 1981 to more than 122 million gallons in 1984) causes potential project financiers concern about uncontrolled imports. Despite a significant increase in the tariff on imported ethanol, the annual volume of imports has been increasing. In many markets, imported ethanol undercuts the price of domestically produced ethanol.

(2) Project financiers have also expressed concern about the price of imported ethanol. Due to price undercutting, imports often displace domestic ethanol. Financiers are justifiably concerned about capitalizing projects which must compete with projects and feedstocks subsidized by the Brazilian government.

(3) In several regional markets, including Nebraska, ethanol plants have discontinued production. In many cases, production has been halted because of depressed ethanol prices caused, in part, by low cost imported ethanol.

(4) Circumvention of tariffs has also resulted in artificially low priced ethanol. By avoiding tariffs, importers can easily undercut the price of domestically produced ethanol. Consequently, project financiers see a domestic market supplied by low cost imported ethanol. The specter of continued supplies of low cost ethanol being imported into midwestern markets makes it extremely difficult to attract financiers to proposed ethanol projects.

(5) The CBI initiatives appear to encourage development of a foreign ethanol industry at the expense of domestic development. Recent Customs Service rulings incorrectly explain that 200 proof alcohol is a "new or different article of commerce" when compared to 190 proof ethanol. One needs only to look at the cost (20–25¢ gallon maximum) of upgrading 190 proof ethanol produced in small "on-farm" plants and subsequently upgraded at a nearby ethanol distillery. While there is a modest increase in the value of such upgraded ethanol, there is certainly not a "new or different article of commerce" which results from this process as defined by earlier rulings.

In summary, the Nebraska Gasohol Committee supports the legislation introduced by Representatives Durbin and Leach. The impact of loopholes created by recent trade related rulings is detering development of a domestic agri-industry. At a time when a strong stimulus is desperately needed in the domestic agricultural sector, it is not prudent policy to discourage such development by allowing imported products to deter development in the United States.

Submitted by,

TODD C. SNELLER, *Administrator.*

NEBRASKA WHEAT BOARD,
Lincoln, NE, June 27, 1985.

Mr. JOSEPH DOWLEY,
Chief Counsel, Ways and Means Committee,
Washington, DC.

DEAR MR. DOWLEY: The Nebraska Wheat Board takes this opportunity to make the Committee aware of our support of HR 1720 introduced by Congressman Durbin and HR 1566 and 1567 introduced by Congressman Leach. The legislation will address the issue of the importation of foreign ethanol entering the U.S. under duty-free status through provisions of the CBI.

Allowing foreign ethanol to enter the United States duty-free through CBI seriously threatens the domestic ethanol industry. This action is in direct contrast to the implementation of federal initiatives to support and nurture the development of a domestic fuel ethanol industry. Domestic ethanol production in 1984 created a nearly 200 million bushel increase in the demand for corn, generated $1.6 billion in economic activity, increased the income of our nation's farmers by roughly $700 million and created thousands of jobs in agriculture, construction, trucking and the railroads. Industry analysts project that the domestic ethanol industry's annual production could increase five-fold, given the proper economic support of Congress, producing 2.5 billion gallons of fuel ethanol each year. This increase in annual production would cut oil imports, increase farm income and generate billions of dollars per year in economic activity.

Farmers and small towns in Nebraska and the midwest are struggling to survive. More banks are closing and farmers going out of business every day. Every effort to provide incentives to use our grain for ethanol production which in turn creates a ripple effect for jobs and the U.S. economy is essential. Loopholes which allow importers to bring foreign ethanol into the U.S. without paying the required 60¢ per gallon duty must be closed.

The Nebraska Wheat Board respectfully urges the subcommittee to move the bills forward as soon as possible.

Sincerely,

ERVAIN J. FRIEHE, *Chairman.*

NEW ENERGY CORPORATION OF INDIANA,
Washington, DC, June 28, 1985.

Mr. JOSEPH DOWLEY,
Chief Counsel, House Ways and Means Committee,
Washington, DC.

DEAR MR. DOWLEY: New Energy Company of Indiana appreciates the opportunity afforded by the House Ways and Means Subcommittee on Trade to provide comments on legislation introduced in the House by Rep. Durbin (H.R. 1720) and Rep. Leach (H.R. 1566 and 1567).

New Energy is the owner of the largest grassroots ethanol production facility in the United States. Our plant, located in South Bend, Indiana, converts annually 20 million bushels of corn into 52.5 million gallons of ethanol, 186,000 tons of dried distillers grains and solubles and 145,000 tons of carbon dioxide. Our plant is powered by its coal fired generating facility. For your reference, an aerial photograph of our facility is attached.

The construction of the facility commenced in October, 1982 and was completed in October, 1984. During this period, over 800 construction workers were employed on site. The total cost of this project was approximately $185,000,000.

The principal sources of funds were $40,000,000 in equity capital and $140,914,000 in bank loans—90% of which are guaranteed by the United States Department of Energy. New Energy is the recipient of the largest loan guarantee in the history of the U.S. Alcohol Fuels Program and the only project currently in production.

Our plant represents a dramatic utilization of technological expertise and utilizes the equipment necessary to produce ethanol in the most cost effective and efficient manner.

Given the substantial capital invested in this project by U.S. investors, lenders and the commitment of the U.S. Department of Energy, we are most concerned about the importation of ethanol for fuel blending purposes which is coming into the United States duty free, and thus circumventing U.S. trade and tariff laws. Ethanol imports, which circumvent the 60 cents per gallon tariff could jeopardize and undermine the economic viability of our project and the entire U.S. ethanol industry. Specifically, we are referring to the Customs Department's ruling that certain dehydration facilities utilizing a basic azeotropic distillation process qualifies for duty free treatment under the Caribbean Basin Economic Recovery Act (CBI). This ruling concludes that this process qualifies as a substantial transformation and creates a new article of commerce under the CBI.

While New Energy understands and generally supports the goals and policies of the CBI plan, it is critical that the mandates of the Congress and the President be implemented in a manner intended by the Program. The purpose of requiring the substantial transformation test is to prevent clever developers from jumping through loopholes to obtain CBI treatment.

Quite frankly, it is inconceivable that the Congress or the Customs Service can conclude that the mere removal of water in a dehydration facility to upgrade the proof level of 95% pure ethanol to 99% pure ethanol is a substantial transformation. To illustrate the untenable and inequitable nature of this conclusion, please refer to New Energy's aerial photograph. Please note the distillation column. This piece of equipment represents the entire Tropicana ethanol production facility. For a capital cost of approximately 5 million dollars, (compared to New Energy's 185 million) the Jamaican drying facility can produce 20 million gallons of ethanol (compared to New Energy's 52.5 million). As the premier U.S. project that was awarded a loan guarantee from the Department of Energy after substantial competition from many other projects, we request that you please consider the difference between a bona-fide ethanol production facility that is able to transform corn or other raw materials into a new article of commerce to a single dehydration column that merely upgrades ethanol produced elsewhere.

Clearly, when Congress created the CBI program its intent was to stimulate capital investment in this region so as to utilize Caribbean labor and raw materials. Certainly the construction of complete ethanol facilities capable of truly transforming CBI raw materials into ethanol is a worthy policy goal and wholly in keeping with the spirit and letter of the CBI program. However, the assembly of a dehydration facility to act as a dryer of Spanish or Brazilian produced ethanol is simply a clever attempt to circumvent the U.S. duty on foreign produced ethanol without providing any meaningful benefit to the CBI.

Should the Congress fail to act on this matter to shut down loopholes which allow importers to mislabel their ethanol for industrial purposes but then sell it for fuel purposes, blend their ethanol with gasoline then pay only a 1.25 cents per gallon duty as opposed to a 60 cents per gallon duty for the ethanol and allow dehydration facilities to operate in the Caribbean under highly advantageous trade conditions reserved for CBI nations, the domestic ethanol industry could be severely damaged.

If the ruling is not revoked or reversed as to all future dehydration facilities, the Congress will have permitted the CBI to become a conduit for funnelling Brazilian ethanol into the United States in massive quantities and without regard to the U.S. duty on foreign ethanol. If this happens, the rapid proliferation of CBI dehydration facilities will certainly jeopardize the substantial capital investment in the U.S. This result would be a tragic consequence given the enormous contribution the domestic ethanol industry provides to our depressed agricultural economy, to high unemployment areas of the Midwest, and to the enactment of our national energy security.

Finally, I want to stress the importance of clear and timely action by the Congress. As a company that has invested almost 200 million dollars in reliance upon government policy, regulations and laws, New Energy understands the inequity that a change or reversal of policy can have upon companies that have in good faith relied upon government decisions. In this situation, it is obvious that Tropicana, like many of us in the ethanol industry, has made an investment decision in reliance upon a governmental policy determination. Certainly, New Energy can appreciate the need for consistency of government action and the need to protect businesses from inconsistent and contradictory policies that can jeopardize investments. Therefore, while we urge that some equitable solution be found with respect to this single situation, it is imperative that this argument of "justifiable reliance" be eliminated for all future developers contemplating similar projects in the CBI. This can only be

achieved by clear and forceful policy proclamations by the Congress. The failure to act decisively and expeditiously to close this loophole runs the great risk of destroying a major U.S. industry and perverting the goals and policy of the worthwhile CBI plan.

Sincerely,

BARRY B. DIRENFELD, *President.*

NEY OIL CO.,
Ney, OH, June 17, 1985.

Re: H.R. 1576 (Leash, Iowa) and H.R. 1720 (Durbin, Illinois).

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. DOWLEY: For many years we have been blenders of fuel grade ethanol with our gasolines. Several months ago we began an association with Tropicana Energy Company as our supplier of fuel grade ethanol. We began purchasing of Tropicana Energy Company because they offered a reliable source of ethanol in addition to good service and very competitive prices. It appears that these two bills will have serious consequences for Tropicana in connection with their investment in Jamaican ethanol production facilities.

With the Environmental Protection Agency's lead phasedown requirements effective July 1, 1985, the use of ethanol will become even more important, and our need for a dependable and competitively priced source of ethanol will become even more important. We have observed that when ethanol supply has become tight in the past, the price rises to a point that its use is no longer economically feasible. For this reason we are strongly opposed to H.R. 1576 and H.R. 1720.

It is my understanding that Congress passed the Caribbean Recovery Act to encourage investment in the poorer Caribbean nations. It would seem inconsistent now to penalize companies such as Tropicana who have made these investments in these countries.

Thank you for considering my thoughts on H.R. 1576 and H.R. 1720, and I hope you will see fit to oppose these two bills.

Very truly yours,

CALVIN BERGMAN, *President.*

OHIO FARM BUREAU FEDERATION, INC.,
Columbus, OH, June 28, 1985.

Mr. JOSEPH DOWLEY,
Chief Counsel, House Ways and Means Committee, Trade Subcomittee, Washington, DC.

DEAR MR. DOWLEY: This is an appeal to pass legislation that would: (1) stop the avoidance of duty, (2) the soaking up of energy tax credits that were designed to make the U.S. more energy sufficient and (3) assist in the building of a renewable fuel base for our country. Ethanol coming from Brazil and some from Spain by way of the Caribbean Basin initiative is circumventing the intent of the Caribbean initiative. The attached documents entitled "An Impact of Dehydrated Ethanol from CBI Countries on the U.S. Ethanol Fuel Industry", "The Impact of CBI Ethanol Dehydration on U.S. Agriculture" and a memorandum report subject "Dehydration of Wet Ethyl Alcohol—Technical Interpretation Re: the Process and the Products" clearly point out the abuses that are being perpetrated through the Caribbean Basin initiative.

The two-fold abuse is accomplished by: (1) shipping a wet alcohol into the Caribbean area and distilling it further to a 199 proof product, (2) shipping into the area an ethanol product that has been adulterated with gasoline and then shipping it to US refiners for further mixing with gasoline, and (3) claiming to have an industrial grade product which, in effect, can be used as a motor fuel.

The ethanol not only avoids the import duty when brought into the country but every effort is made to market it in the state that provides the combination of the least transportation cost and the highest tax credit. We do not believe there is any justification for the U.S. and the industrial states to subsidize a product that is being subsidized by Brazil or any other country and dumped into our markets. Such action abuses and destroys the purpose for which states and the federal government have encouraged ethanol production.

It is for these reasons that we ask for consideration and recommended passage of legislation such as Mr. Durbin's in H.R. 1720 and Mr. Leach's in H.R. 1566 and H.R. 1567.

Thanks for your careful consideration.

Sincerely,

C. WILLIAM SWANK,
Executive Vice President.

(Attachments have been retained in the committee files.)

PANAMA, *June 27, 1985.*

Hon. SAM GIBBONS,
Subcommittee on Trade #8, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR CONGRESSMAN GIBBONS: We have knowledge that Congressman Durbin has introduced H.L. 1720 a bill that would ammend the Caribbean Basic Economic Recovery Act.

Our Corporation support Congressman Durbin's legislation and also our industrie are seriouly support the amendment that close the loopholes created in U.S. Customs Service, by introducing Ethyl Alcohol not from the raw material in the Carribbean Basic Countries.

And also we will like to point that we do not agree other interpretation of the "SUSTANTIAL TRANSFORMATION," when the Alcohol is DHYDRATING, Rule of C.B.I.

As you have known our position regarding this industrie, our countrie as others Sugar Cane producer in the Caribbean Basic area converting part or all of Sugar Cane into the production of Alcohol.

For our industrie the transformation of Sugar Cane into Ethyl Alcohol, and its export "Duty Free" to the United States fuel market, give us a price no less than $0.12 per pound. This is a good and significantly price than the sugar market is given us.

As Caribbean Countries our social an economic position is seriously affected know as Sugar Cane Producers and we will be worst if the House of Representative do not support H.L. 1720, because the fact is that ETHYL ALCOHOL used for fuel which is produced in the Caribbean Countries is ETHYL ALCOHOL with aout any "SUSTANTIAL TRANSFORMATION".

In specting in your copration in this matter so importan for our Industrie.

Kindest Regards,

MR. EFRAIN E. ZANETTI, P.
General Director,
Panama's State Sugar Cane Mills.

STATEMENT OF DENNIS J. CAREY, CHAIRMAN, PEERLESS OIL & CHEMICALS, INC.

Peerless Oil & Chemicals, Inc. ("Peerless") welcomes this opportunity to present written testimony to the Committee on Ways and Means, Subcommittee on Trade, regarding certain tariff and trade bills affecting the importation of fuel grade ethyl alcohol into the United States. Peerless is concerned that the proposed legislation and any proposed modifications thereto not adversely affect fuel grade ethyl alcohol products which the Company will produce at its proposed Puerto Rico alcohol fuels facility.

Peerless is a Delaware corporation, which resides and does business in the Commonwealth of Puerto Rico. The Company actively has operated in Puerto Rico since 1954, as a manufacturer, marketer and terminal operator for petrochemicals and petroleum products. It owns a processing facility on the south coast of Puerto Rico, near Ponce. Peerless currently is revamping this facility to process sugar derived feedstocks from Caribbean Basin Economic Recovery Act of 1983 ("CBERA") beneficiary countries such as the Dominican Republic, into fuel grade ethanol for sale in the continental United States.

The CBERA provides tariff-free treatment on products (1) grown, produced, or manufactured (including substantial transformation) in a qualified beneficiary country; (2) directly imported into the United States; and (3) which, at importation, contain at least 35 percent of the product's appraised value resulting from materials and direct processing costs originating in the beneficiary country. Puerto Rico, although not a qualified beneficiary country of origin under the CBERA, nevertheless

is "deemed" a qualified beneficiary country for purposes of satisfying the 35 percent of appraised value test. Puerto Rico, thus, commands a direct and critical role under this important federal statute.

Peerless' facility, when completed, will represent an investment in excess of $20 million. The Manufacturing process proposed for this facility will include the receipt of bulk feedstocks, fermentation, rectification, dehydration, and denaturing prior to the shipment of the finished product to the continental United States.

Peerless' current and proposed operations are located in an area of Puerto Rico comprised of high unemployment, resulting from multiple plant closings *(e.g.,* Union Carbide, PPG Chemicals, Commonwealth Oil Refining) in recent years. Peerless' proposed facility will constitute the only operating plant remaining active in an area once known as "the Guayanilla Petrochemical Complex". The Company's employment of currently unemployed sk. led labor for operating and construction activities at this proposed facility will directly benefit this economically depressed area. Its large volume purchases of sugar based feedstocks, above the current world price for sugar, similarly will provide direct and immediate economic aid to neighboring CBERA beneficiary countries, such as the Dominican Republic.

Congress crafted the CBERA, to provide one-way free trade with "the most favorable and secure long term access possible to the U.S. market." 1983 U.S. CODE CONG. & AD. NEWS 643, 644 (H. Rep. No. 266, 98th Cong. 1st Sess.). It intended to assist CBERA beneficiary countries establish a capitalistic industrial base. The CBERA legislative history, in this regard, clearly evidences that Congress intended tariff-free treatment on qualified beneficiary country products directly imported into the United States to counter "serious inflation, high unemployment, declining gross domestic product growth, enormous balance of deficit payments, and pressing liquidity crises". *Id.* The benefits which will accrue to CBERA beneficiary countries through Peerless' proposed Puerto Rico facility clearly comport with the spirit of this federal trade legislation.

Peerless wishes to make Congress aware of the Company's proposed enterprise during the members' consideration of proposed legislation *(i.e.,* H.R. 1566, H.R. 1567 (including the identical S. 575 and S. 576) and H.R. 1720) affecting CBERA beneficiary countries, fuel grade ethyl alcohol, and particularly the Commonwealth of Puerto Rico. The Company agrees with Congress that protection of the current United States supply/demand market forces is vital. The Company, with those market forces in mind, has committed to invest so many millions of additional dollars in Puerto Rico. The Company, therefore, is in favor of proposed legislation which would advance only the original intent of the CBERA.

Peerless, however, is concerned that the current language, encompassed in H.R. 1566, H.R. 1567 and H.R. 1720 and which addresses the penetration of the United States marketplace by foreign ethyl alcohol, could hinder the Company's proposed activities in Puerto Rico. The unique features of certain provisions of United States and Commonwealth legislation affecting Puerto Rico frequently create grey areas for companies, doing business on that island but selling their products in the continental United States. Peerless submits that portions of the current legislation as proposed may create additional problems for its operations. It furthermore believes that the intent of Congress is not to create legislation antipathetic to the progress of such an industrial and stable area such as Puerto Rico.

Peerless, therefore, respectively requests that Congress modify this proposed legislation to clarify that Puerto Rican products, including alcohol fuels, are not penalized under any proposed modification to the currently effective CBERA.

PETRO CARBON CONSULTING ASSOCIATES, INC.,
Phoenix, AZ, June 22, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, House Ways and Means Committee, House of Representatives, Washington, DC.

DEAR SIR: I am writing in regard to legislation which has been referred to your committee, specifically House bills #1566, #1567, and #1720. I write in opposition to these proposals.

During the 1979–80 gasoline crisis, I was in charge of the Arizona Office of Emergency Fuel Allocation. As the crisis developed, I became aware of America's vulnerability in the vital area of energy. Since leaving state service, I have been directly involved gasoline and fuel alcohol marketing.

In 1979, it was clear that America was dependent upon a small group of suppliers for a vast amount of our energy needs. America not only needed more reliable sup-

pliers of petroleum, but indeed new types of energy. Alcohol, which had long been ignored, was looked at with renewed interest.

The almost non-existent fuel alcohol industry was given new life by the gasoline crisis. Today, alcohol plays a major role in the American energy picture. Domestic and imported alcohol is vital to America, just as domestic and imported petroleum are.

As the gasoline shortage waned, our national resolve seemed firm. This situation would never be allowed to happen again. Congress passed programs, and our business and political leaders were confident. Fuel supplies flowed, and very soon, people were forgetting that just a few short years earlier, people were shooting other people in gasoline lines. People were forgetting that our entire economy was disrupted and threatened. People were forgetting that our national security was in danger. Sadly, that forgetfulness continues, as exampiified by the above bills.

Today, the United States again faces the possibility of a gasoline shortage. The United States Environmental Protection Agency has recently mandated the almost total elimination of lead from gasoline. This action is commendable in light of information now available concerning the health effects of lead. This EPA action is often referred to as "lead phase down". Most Western nations have also announced lead phase down programs.

Lead is currently the most economical octane enhancer available. To replace lead in gasoline is going to be very expensive. Refiners are having to spend vast amounts of money to retrofit their facilities, in order to produce more non-leaded gasoline. With the de-regulation of the petroleum industry, it is estimated that 15% of our refining capacity shut down. It is further estimated that possibly another 30% of our refining capacity will shut down due to lead phase down. It would seem that with a substantially reduced refining capacity, and the eagerness of the major oil companies to raise prices, that the stage is set for a new gasoline shortage. According to the June 17th issue of OIL EXPRESS, U.S. refineries are operating at 79% of capacity, which is a high figure. Last year at this time, they were operating at 77%. While our operating percentage of capacity is up, the American Petroleum Institute estimates that American gasoline inventories are down almost 15% from a year ago. Consumer prices have risen as much as 25% in the last six months.

It is interesting to note that most refiners are turning to benzene and xylene as lead replacements. It is common knowledge that the Occupational Safety & Health Administration, and indeed the refiners themselves consider both these chemicals as extremely carcinogenic. Representative Durbin has formally requested a study by the Congressional Office of Technology Assessment, which would examine the health effects of these substances. If these chemicals are in turn banned, it would fall to alcohol to play the role of primary octane enhancer.

There appears to be little if indeed any concern expressed by the major refiners as to the effects of lead phase down. One need ask only one question as to why there is a lack of concern. Who would benefit the most from a gasoline shortage and the resulting price increases. As a veteran of the last shortage, I know that this was indeed a very prosperous period for everyone connected to the gasoline industry.

If a gasoline shortage were to develop, alcohol would serve a dual role. It would be an octane enhancer, and it would extend gasoline supplies by 10%. It is easy to understand why refiners are reluctant to embrace alcohol in that 10% of their market is threatened.

It would seem that the United States would be doing everything within its power to insure a responsible and reliable alcohol fuel industry, both domestic and foreign. Instead, the Congress seems intent upon erecting barriers to the importation of foreign alcohol. At every turn, the domestic industry keeps crying that it is in danger, and needs help. All this while they whistle a pretty tune on the way to the bank.

It is well documented that the domestic alcohol industry has turned to every government agency that it could, in seeking ways to keep foreign alcohol out of the U.S. market. These bills again clearly testify to that. The domestic industry's complaint to the International Trade Commission is yet another example of this effort. It now appears that the complaint to the ITC is groundless, and indeed several domestic producers have announced that they are withdrawing from the action.

In light of this intense opposition, the foreign producers are reacting. Brazil announced a stop in the importation of alcohol to the United States. It was a clear signal that they are concerned. What we sometimes foget is that we are not the only market in the world. Foreign producers are actively going after business in Western Europe, Japan, and the non-OPEC developing nations. They have come to the conclusion that the United States is not a reliable market.

It should be noted that if all the ethanol produced in the United States was marketed in the State of California, there would not be enough to blend a legal 10% alcohol, 90% gasoline mixture.

Already, there is a beginning of a domestic alcohol shortage. Marketers in Iowa are being sold alcohol based on a percentage of historic consumption. It is ironic that Iowa, the virtual birthplace of the domestic alcohol fuel industry, is the first to feel the shortage. ALCOHOL WEEK recently reported that there remained in California less than a 30 day supply of fuel ethanol.

In 1980 in the State of Arizona, marketers had to pay in excess of $2.00 per gallon of ethanol. The domestic producers refused to sell any alcohol in Arizona. As a result, marketers blended with foreign ethanol. As we approach another possible shortage, we cannot erect barriers that will stop the flow of imported alcohol to states such as Arizona, with no domestic producers. In 1980, we found out in Arizona that the domestic producers will concentrate on their most profitable areas. In 1985, Iowa is learning the same lesson.

It cannot be understated, alcohol, both domestic and imported, is vital to the economic and security interests of the United States. In light of this, it would seem that our political leaders would be taking steps to protect not only our domestic alcohol industry, but our imported sources of alcohol as well. Shortsighted political figures, playing mostly to "hometown interests" are seeking to end the ability to import alcohol. This at a time when domestic alcohol is being prorated in Iowa and there is less than a 30 day supply in California.

When President Reagan announced the Caribbean Basin Initiative, he realized that products produced in a CBI country would be at an advantage. President Reagan, and the members of Congress who supported the program realized it at the time. For it is both in the economic and national security interest of the United States to have a strong and vibrant Caribbean basin in our backyard. Now, the General Motors of the domestic fuel industry, Archer Daniels Midland, the same producer who is prorating alcohol in Iowa, and does not seem interested in the California market, is claiming that alcohol from the Caribbean basin would devastate them. The simple fact is, it won't. The region cannot even begin to make a dent in the American market. It would take an enormous investment, on the part of foreign producers in the Caribbean, to do the things that ADM is afraid of. It is clear that the American market is big enough to sustain both the domestic and foreign producers.

The passage of these proposals will send a clear signal to those nations in the Caribbean region that the United States only means what it promises, part of the time. The passage of these bills will let people know in states like Arizona, that the Congress is more interested in regional protectionism, than adequate fuel supplies. Finally, the passage of these bills will indicate to everyone, that shortsighted special interests are indeed very powerful in America.

I appreciate the opportunity to make these comments.

Sincerely,

LLOYD VACOVSKY, *President.*

PORTS PETROLEUM CO., INC.,
Wooster, OH, June 13, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. DOWLEY: We are a supplier of motor fuels in Ohio, Tennessee, South Carolina, North Carolina and Georgia employing 275 people in our direct retail operation, and serving 150–200 customers on a wholesale basis.

I am writing to you to encourage you and your committee to seriously consider the effects of the passage of either H.R. 1576 (Leach, Iowa) or H.R. 1720 (Durbin, Illinois).

Tropicana Energy Company has made considerable investments in the Caribbean region, as outlined in the C.B.I. (Caribbean Recovery Initiative). They made these investments in good faith and now H.R. 1576 and H.R. 1720 are being proposed, which would result in the loss of these invested monies.

H.R. 1720 and H.R. 1576 are being proposed solely for the benefit of a special interest group in both Iowa and Illinois. If these groups wanted to exert their influence, they should have made their position known prior to the passage of the C.B.I. program.

Thank you for your consideration.
Sincerely,

WILLIAM C. PORTS, *President.*

STATEMENT OF RAJ CHEMICALS, INC.

RAJ Chemicals, Inc., a distributor/marketer of fuel grade ethyl alcohol in the United States, commends the House Subcommittee on Trade for providing this opportunity to submit written testimony regarding the impact of certain tariff and trade bills on the importation of fuel grade ethyl alcohol into the United States.

On March 19, 1985, Congressman Leach introduced H.R. 1566 and H.R. 1567. (Senator Dole originally had introduced the identical proposed legislation, S. 575 and S. 576, on March 5, 1985.) On March 26, 1985, Congressman Durbin similarly introduced H.R. 1720. These proposed measures would amend the Tariff Schedules of the United States ("TSUS") to end certain legitimate tariff practices with regard to fuel grade ethyl alcohol and motor gasoline. These practices include (1) the qualification of azeotropic distillation of beverage grade to fuel grade ethyl alcohol as substantial transformation under the Caribbean Basin Economic Recovery Act of 1983 ("CBERA"), Pup. L. No. 98–67, and (2) the qualification of mixtures containing ethyl alcohol in motor gasoline at tariffs less than the 60 cents per gallon and 3 percent *ad valorem* tax rates provided in TSUS Items 901.50 and 427.88, respectively.

RAJ Chemicals, Inc. submits that this proposed legislation is excessively broad and, as such, should be substantially amended or revoked. The Company, in this regard, points out that the United States Department of the Treasury, Customs Service ("Customs") properly ruled that azeotropic distillation of beverage grade to fuel grade ethyl alcohol constitutes substantial transformation to satisfy required tests for CBERA tariff-free treatment.

RAJ Chemicals, Inc., however, does not support the tariff-free treatment of all imported ethyl alcohol transformed to a fuel grade product within CBERA beneficiary countries through azeotropic distillation. It cautions that such product must subsequently meet the more stringent "35 percent of appraised value added" test before qualifying for tariff-free treatment when directly imported into United States Customs Territory.

The Company further submits that ethyl alcohol production from grassroots facilities in a CBERA beneficiary country should qualify for tariff-free treatment when directly imported.

Customs should continue to accord fuel grade ethyl alcohol, produced in CBERA beneficiary countries either by azeotropic distillation or grassroots fermentation, tariff-free treatment upon direct importation into the United States. These production methods promote the Congressional intent for capital investment with the Caribbean Basin. They also facilitate Congress' intent of one-way trade into the United States from those qualified countries.

Ethyl alcohol produced in a grassroots fermentation facility located in a beneficiary country would constitute a new or different article of commerce which has been grown, produced, or manufactured in that country. Through this fermentation process, at least 35 percent of the appraised value of the ethyl alcohol imported directly into the United States must result from materials and direct processing costs originating in the beneficiary country. Thus, production from this grassroots ethyl alcohol facility would satisfy the critical tests necessary to obtain tariff-free treatment under the CBERA. Similarly, fuel grade ethyl alcohol achieving beneficiary origin status through substantial transformation, such as azeotropic distillation, and satisfying the 35 percent of appraised value test, also qualifies for CBERA tariff-free treatment. As such, tariff-free treatment for any ethyl alcohol meeting the CBERA tests would constitute a legitimate tariff practice.

CBERA legislative history clearly demonstrates that the statute's tariff-free treatment constitutes a direct response to the "economic crisis which threatens political and social stability throughout the region". 1983 U.S. CODE CONG. & AD. NEWS 643, 644 (H. Rep. No. 266, 98th Cong. 1st Sess.). High costs from oil imported into CBERA beneficiary countries and declining prices for their major regional exports such as sugar, coffee and bauxite, "exacerbates their deeply rooted structural problems, and causes serious inflation, high unemployment, declining gross domestic product growth, enormous balance of payments deficits, and pressing political crises". *Id.*

The Caribbean Basin Initiative ("CBI") program, established under the Act, consists of "integrated, mutually reinforcing measures in the fields of trade, investment, and financial assistance to address both emergency problems and long-range

economic development. The program is designed to foster self-reliance and its success rests primarily on implementation through local and foreign sector initiative. The centerpiece of the U.S. program is the offer of one-way free trade under Title I of the legislation, providing the most favorable and secure long term access possible to the U.S. market". *Id.* Grassroots and azeotropic distillation facilities, respectively, representing multi-million dollar capital investments in beneficiary countries, would create hundreds of new jobs, and thus, would reduce high unemployment. They also would provide saleable ethyl alcohol products which return substantial revenues to such countries. These revenues would increase domestic product growth, reduce balance of payments deficits and create liquid cash reserves for use in future investments within those nations. These ethanol facilities would establish long term economic independence and promote political and social structures for these countries.

The resultant ethyl alcohol from CBERA countries would enter the United States to substantially assist in filling the large domestic gap of alcohol fuels necessary for American motor gasoline octane requirements due to the Environmental Protection Agency's ("EPA's") lead phasedown schedule. Ethyl alcohol production from facilities located in beneficiary countries are, thus, directly within the spirit of the CBERA and a vital supplement to domestic supplies.

This proposed legislation also would legislatively overrule legitimate Customs Rulings permitting azeotropic distillation to qualify for substantial transformation within insular possessions. However, for the same reasons, both grassroots and azeotropic distillation production in insular possessions of the United States, meeting the tests accorded under TSUS General Headnote 3(a) and similar to those provided under the CBERA, should qualify for tariff-free treatment.

RAJ Chemicals, Inc. further submits that the proposed legislation which would provide the 60 cents per gallon and 3 percent *ad valorem* ethyl alcohol treatment to any mixtures containing ethyl alcohol for fuel use is excessively broad, and potentially harmful to the United States motor fuels industry. These bills provide no percentage limitation on the amount of ethyl alcohol contained in such a mixture for the imposition of the high TSUS Item 901.50/427.88 tariff treatment upon each blended gallon.

In this regard, a gallon of finished gasoline containing even *de minimis* amounts of ethyl alcohol (*i.e.*, much less than the 10 percent limit accorded gasohol) would receive such high tariff treatment. Customs clearly has ruled that gasoline mixtures containing 10 percent ethyl alcohol qualify for the 1.25 cents per gallon motor fuels treatment under TSUS Item 475.25. Unleaded gasoline blends containing up to and including 10 percent ethyl alcohol comply with EPA's gasohol waiver restrictions. They furthermore are "chiefly used" as motor fuel within the United States. The Company submits that, at the least, Congress should amend the proposed legislation to impose such tariff treatment only on mixtures of unleaded gasoline containing more than 10 percent ethyl alcohol.

Congress, however, should not impose any percentage limitation on the amount of ethyl alcohol contained in leaded gasoline blends. Leaded gasoline blends with more than 10 percent ethyl alcohol will be chiefly used as motor fuel in the near future. EPA imposes no waiver restrictions on leaded gasoline blends. Such blends are needed to boost octane levels under the restrictive EPA lead phasedown schedules commencing July 1, 1985, and will frequently require more than 10 percent ethyl alcohol to reach this goal. The Company asserts that leaded gasoline containing ethyl alcohol of unlimited percentages should receive tariff treatment accorded under TSUS Item 475.25 or other applicable tariff provisions, depending upon whether the product meets the various tests provided under those respective tariff regulations.

Greater then denatured ethyl alcohol blends should not be accorded TSUS Items 901.50/427.88 treatment. Such blends should be accorded tariff treatment as currently provided by Customs.

In conclusion, RAJ Chemicals, Inc. asserts that these proposed legislative measures ultimately will prove harmful to the domestic motor fuels industry. As such, the proposed legislation requires significant modification or revocation based upon the foregoing arguments.

RENEWABLE FUELS ASSOCIATION,
Washington, DC, June 28, 1985.

Mr. JOSEPH DOWLEY,
Chief Counsel, House Committee on Ways and Means,
Washington, DC.

DEAR MR. DOWLEY: The Renewable Fuels Association, the only Washington, DC-based organization designed primarily to advocate the interests of the domestic alcohol fuels industry and other renewable fuels technologies before the Congress and various federal agencies, strongly endorses H.R. 1720 and H.R. 1566 and 1567, legislative proposals which are designed to ensure regular payment of duties imposed on imported ethyl alcohol and payment of the additional duty imposed on ethyl alcohol when imported for use in producing a mixture of gasoline and alcohol or used otherwise as transportation fuel.

The special tariff on imported fuel ethanol (TSUS 901.50) was established by Congress to offset the federal excise tax exemption for gasoline blended with ethanol. This ensured that the exemption promoted development of the *domestic* ethanol industry, as Congress intended. However, large amounts of ethanol are now being imported without full payment of the duty, and these amounts are certain to escalate without corrective action by Congress. Importers are utilizing at least three statutory loopholes to circumvent the tariff:

A recent ruling by the Customs Service determined that fuel ethanol produced in Brazil, Spain, or other non-Caribbean countries that is later upgraded from 190 proof to 200 proof simply by removing the remaining water through additional distillation in Caribbean countries qualifies for duty-free treatment under the Caribbean Basin Initiative (CBI). This ruling was made in response to confidential request, without opportunity of public comment. Under this ruling, an importer is now able to avoid the federal tariff by first transporting ethanol to Caribbean "drying" operations and then obtaining duty-free entry into the United States under the CBI.

Current regulatory provisions enable an importer to avoid paying the 60 cents tariff on fuel ethanol by initially designating the ethanol as being intended for industrial use. Should that ethanol then later be used as fuel, the importer has up to 3 years in which to pay the 60 cents per gallon duty with no interest or penalty. This amounts to a 3-year interest-free loan by the Federal Government.

A large scale effort to circumvent the tariff is also being made by mixing the ethanol with gasoline and then exporting it to the U.S. as a motor fuel or other blending component. Current Tariff Schedule provisions indicate that the duty on such a gasoline/alcohol mixture could be as low as 1.25 cents per gallon.

Legislation introduced by Rep. Durbin (H.R. 1720) and Rep. Leach (H.R. 1566 and H.R. 1567) addresses these three loopholes that importers have found in the federal tariff on fuel ethanol imports. Closing these loopholes would support the intent of Congress when it established the tariffs on imported ethanol for blending with fuel and the original intent of the Congress when it established the Caribbean Basin Initiative to enhance economic development in the area.

One of the objectives of the legislation filed by Reps. Durbin, Leach, and Heftel is to exclude from tariff-free treatment under the Caribbean Basin Economic Recovery Act of 1983 ("CBERA"), ethyl alcohol used for fuel which utilizes the dehydration process only, and not the more capital and labor intensive processes of saccrification and fermination in a beneficiary country.

The intent of this legislation is not to disallow duty-free treatment for ethanol that is a product of a CBERA beneficiary country. The impact of the position taken in the legislative proposal is not to shut down economic development in CBERA beneficiary countries but, instead, to encourage the capital investment in and development of grassroots ethanol facilities in those countries. We believe the Durbin, Leach and Heftel proposal clearly comports with the Congressional intent underlying the CBERA.

Ethyl alcohol, in this regard, produced in a grassroots fermination facility located in a beneficiary country would, in our opinion, constitute a new or different article of commerce that has been grown, produced, or manufactured in that country. Through this fermination process, at least 35 percent of the appraised value of that ethyl alcohol imported directly into the United States would have resulted from materials and direct processing costs originating in the beneficiary country. Production from this grassroots ethanol facility, thus, would satisfy the critical tests necessary to obtain tariff-free treatment under the CBERA. Moreover, grassroots production would guarantee economic benefits to the beneficiary country and prevent pass-through operations from so-called "runaway plants."

We are concerned with initiatives taken in the Caribbean to operate simple ethanol dehydration facilities which will cost the U.S. Treasury millions in lost revenues

while employing very few workers in Caribbean nations. For example, the Tropicana facility in Jamaica will process 20 million gallons of "wet" ethanol per year into "dry" ethanol suitable for blending with gasoline at a cost of $12 million in lost tariff revenues. The Tropicana-Jamaica facility, however, will employ less than 40 people . . . hardly an acceptable investment in an economically depressed CBI nation. Our concern is that these so-called "drying facilities" are just an elaborate scheme designed to circumvent U.S. duties and not provide long-term economic development and employment opportunities as was intended under the Caribbean Basin Initiative.

CBERA's legislative history clearly demonstrates that the statute's tariff-free treatment constitutes a direct response to "the economic crisis which threatens political and social stability throughout the region." Escalating costs from oil imported into the Caribbean and declining prices for major exports, such as sugar, coffee, and bauxite from CBERA beneficiary countries exacerbates their deep-rooted structural problems and causes serious inflation, high unemployment, declining gross domestic product growth, enormous balance of payments deficits, and a pressing liquidity crisis.

The Caribbean Basin Initiative ("CBI") program established under the Act consists of integrated, mutually reinforcing measures in the fields of trade, investment, and financial assistance to address both emergency problems and long range economic development. The program is designed to foster self-reliance and its success rests primarily on implementation through local and foreign private sector initiative. The centerpiece of the U.S. program is the offer of one-way free-trade under Title I of the legislation, providing the most favorable and secure long-term access possible to the U.S. market.

Grassroots facilities, representing multimillion dollar capital investments in beneficiary countries, would create hundreds of new jobs and thus undercut high unemployment. They also would provide saleable ethyl alcohol products which would return substantial revenues to such countries. These revenues would increase domestic product growth, reduce balance of payments deficits, and create liquid cash reserves for use in further investment in those nations. Grassroots ethanol facilities would establish long-term economic independence and promote stabilized political and social structures for these countries.

Six years ago, when the United States Congress enacted the tax incentives to encourage the production and use of fuel ethanol from renewable resources, the twin objectives of the fuel ethanol program were to reduce our dangerous dependence on foreign sources of energy and to provide a new market for American farm produce. Today, fuel ethanol is the nation's most significant liquid fuel alternative . . . more than 5.6 billion gallons of ethanol enhanced gasoline were sold in the U.S. last year alone. With the recent EPA decision to ban the use of lead in gasoline, the future prospects for ethanol sales as an octane enhancing additive for gasoline are tremendous.

Thirty-two states currently offer some level of tax exemption for ethanol enhanced gasoline. These tax exemptions complement the Federal excise tax exemption and create a climate of growth and opportunity for all of us.

Many people are largely unaware of the fact that "gasohol" of the 1979 gasoline line days is quietly thriving in another form: ethanol-enhanced gasoline. Rather than calling it gasohol, most marketers of ethanol-enhanced gasoline are now labeling their blends "super unleaded with ethanol" or "unleaded plus" and so on. In 1984, domestic fuel ethanol producers processed roughly 200 million bushels of grain into enough fuel grade ethanol to account for 5 billion gallons of ethanol-enhanced gasoline or roughly 100 billion miles of smooth driving performance. Ethanol is usually blended with gasoline in a 10%/90% ratio.

Ethanol is now regarded not only as a unique gasoline extender—by displacing 10 percent of the gasoline in a blend—but as one of the most effective octane-enhancing additives available to U.S. refiners. This dual capability is of even greater value in light of EPA's recent decision to reduce lead in gasoline.

As we all realize, the economic prosperity of our nation and our farms are interrelated. But many fail to realize that the economy of rural communities all over America can be improved by encouraging the diversification of farming activity into the production of food, feed, fiber, *and fuel.* At the start of this century, our farmers devoted from 80 to 120 million acres to growing hay, oats, and other feed for their "energy equipment" horses and mules. Since relatively inexpensive fossil fuels have become readily available, this acreage has shifted to the production of food, feed, and fiber crops and U.S. agriculture is beset with what appears to be a structural excess supply. As a result, our nation's agricultural abundance, the marvel of the

world, has been described by some of our public officials as a curse—when in fact it is the greatest of all our blessings.

There are obviously no panaceas to the problems of U.S. agricultural supply/demand imbalance, the nation's continuing dependence on imported oil and petroleum products, and the replacement of lead and other harmful additives in our motor fuels. However, the fact that fuel ethanol offers an efficient way to partially address all three problems makes it a logical and key component of our national agricultural/energy/environmental/policy deliberations.

Fuel ethanol provides a synergistic way to benefit nearly every American:

Farmers, by improving demand and prices for their products;

Taxpayers, by reducing the need for enormous surplus commodity program outlays;

Laborers, by productively investing dollars in U.S. plant construction and equipment manufacturing that would otherwise have gone to foreign oil producers;

Environmentalists, by producing an environmentally benign liquid fuel that can replace lead and reduce tailpipe emissions; and

Policy Makers, by lessening the nation's energy vunerability and reindustrializing the economy at the same time.

American agriculture is the most productive sector of our economy and should be encouraged to profitably operate at full production capacity. By encouraging a vigorous domestic fuel ethanol program, sufficient new demand for U.S. agricultural products would be stimulated, which would bring about the full production agricultural economy that should be a fundamental national policy objective.

In 1985 alone, nearly 65 commercial fuel ethanol facilities will consume the equivalent of 200 million bushels of farm crops to produce enough fuel ethanol to back out over $350 million worth of imported oil and meet a sizeable portion of our "octane gap." In light of the growth demonstrated by the United States fuel ethanol industry in the past four years, achievement of the goal set by the National Corn Growers Association of converting one billion bushels of grain into ethanol by the year 1990 is not only realistic but also offers positive and productive goals for American agriculture. It provides opportunities to expand domestic and foreign markets for "value added" American farm products and increase farm income through sales rather than governmental payments.

Fifty years ago, former Senator Everett Dirksen prescribed a partial solution to domestic agricultural and energy problems facing the nation at that time and said: "We must alter our internal economy by processing surplus farm crops into alcohol. . . . We will be able to establish a balanced agriculture, balanced industry, and preserve for ourselves the greatest market in all the world; namely the market in our own land for our own people. It is a kind of diversification through which we can preserve an internal prosperity and rid ourselves of a dangerous dependence on other nations."

The production of ethanol from renewable resources cannot solve all our agricultural, energy, or environmental problems, but public policy leaders with vision and commitment created the ethanol program to deal aggressively with the twin problems of growing dependence on foreign sources of energy and surplus farm sector production. In four years, the men and women who built the domestic fuel ethanol industry have invested over a billion dollars in facilities to produce nearly 700 million gallons of fuel ethanol annually from renewable resources.

We have attached several items for the record in support of our position regarding the importation of dehydrated ethanol from CBI countries. The attached items are as follows:

An RFA Fact sheet on H.R. 1720 and H.R. 1566 and 1567;

A study on "The Impact of Dehydrated Ethanol from CBI Countries on the U.S. Fuel Ethanol Industry" and a summary of that report;

A study on "The Impact of CBI Ethanol Dehydration on U.S. Agriculture" and a summary of that report.

I thank you for the opportunity to present the House Committee on Ways and Means with the views of the Renewable Fuels Association. If we can provide you with any additional information on the fuel ethanol industry, please contact me directly.

Sincerely,

ERIC VAUGHN, *President.*

(Attachments have been retained in the committee files.)

STATEMENT OF M.A. JOHNSON, SENIOR VICE PRESIDENT—REFINING AND COORDINATION, CITGO PETROLEUM CORP. ON BEHALF OF THE SOUTHLAND CORP. AND CITGO PETROLEUM CORP.

SUMMARY OF RECOMMENDATION

Apply additional duty under TSUS Item 901.50 in proportion to ethyl alcohol content of the mixture in order to avoid imposing additional duty greater than value of gasohol exemption attributable to ethyl alcohol content of the mixture.

STATEMENT

The Southland Corporation (Southland), together with its wholly-owned subsidiary, the CITGO Petroleum Corporation (CITGO), is the largest marketer of ethanol blended gasolines in the United States. Southland and CITGO market ethanol blended gasolines (gasohol) in 20 states. Southland's and CITGO's sales of gasohol are projected to exceed eight hundred million (800,000,000) gallons during 1985.

To satisfy their requirements, Southland and CITGO have purchased domestically produced and imported ethyl alcohol and gasohol blends, although neither has been the importer of ethyl alcohol or ethyl alcohol mixtures. In light of the EPA's phase-out of the use of tetraethyl lead as an additive in automobile gasolines, Southland and CITGO foresee a growing role for ethanol blended gasolines—ethanol can provide an excellent source of octanes to compensate for the loss of tetraethyl lead.

Currently, however, volatile market conditions force Southland and CITGO to acquire alcohol blending components on a short-term basis. The flexibility of Southland and CITGO and their ability to trade on such a basis have contributed to their success as gasohol marketers. Southland and CITGO foresee a continued need for flexibility as the key to successful marketing of gasohol fuels in the future.

Consistent with preserving such flexibility, Southland and CITGO desire to preserve the opportunity to import fuel *mixtures* containing ethyl alcohol on a *nondiscriminatory* basis—a basis which neither bestows unintended benefits (as current law arguably does) nor imposes disproportionate burdens (as both H.R. 1566 and H.R. 1720 would).

H.R. 1566 would amend the description of TSUS Item 901.50 to assure payment of the additional duty (currently 60 cents per gallon) on mixtures containing ethyl alcohol where the mixture is to be used as a fuel or to produce a fuel.

TSUS Item 901.50 was added to the Tariff Schedules of the United States at the time Congress established the partial exemption for gasohol (a gasoline mixture containing 10% ethyl alcohol) from the federal excise taxes imposed on motor fuels. Currently the exemption is 6 cents per gallon.

The additional duty was adopted in order to focus the benefits of the gasohol excise tax exemption on *domestically produced* ethyl alcohol. Each gallon of pure ethanol produces 10 gallons of gasohol (containing 10% ethanol). Therefore, the value of the current 6 cents per gallon gasohol exemption is 60 cents per gallon of ethanol. Accordingly, a 60 cents per gallon additional duty is imposed on "ethyl alcohol (provided for in item 427.88, part 2D, schedule 4) when imported to be used in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as fuel, or when imported to be used otherwise as fuel."

The Customs Service, however, has interpreted the above description as limited to essentially pure ethyl alcohol and not applicable to imported fuel *mixtures* containing ethyl alcohol. As a consequence, ethyl alcohol *mixtures* have been imported into the U.S. without payment of the additional duty imposed under Item 901.50; yet gasohol produced from this imported ethyl alcohol qualifies for the 6 cents per gallon federal excise tax exemption. H.R. 1566 would close this "loophole" in the description of Item 901.50 to assure that the original intent of Congress in establishing the excise tax exemption for gasohol is carried out, *i.e.*, that the exemption benefits only domestically produced ethyl alcohol. In part H.R. 1720 would do the same thing.[1]

Southland and CITGO desire to call the attention of the Subcommittee to a technical aspect of H.R. 1566 and the related provisions of H.R. 1720 as a consequence of which these bills may go far beyond the intention of their sponsors and actually *impose additional duties not offset by an equivalent federal excise tax exemption.* Specifically H.R. 1566 and H.R. 1720 impose the full additional duty under Item 901.50 to ethyl alcohol mixtures *without regard to the ethyl alcohol content of the mixture.* In the simplest case, under either bill, imported gasohol containing 10%

[1] H.R. 1720 also includes country of origin rules to be applied to certain ethyl alcohol imports. These Comments do not address this aspect of H.R. 1720.

ethyl alcohol would be charged the entire additional 60 cents per gallon duty under Item 901.50, ostensibly in order to offset the value of the federal excise tax exemption for gasohol. Yet the imported gasohol would qualify for only a 6 cents per gallon exemption from the federal excise tax on motor fuels.

Such a result would deny gasohol marketers the flexibility to augment gasohol supplies containing domestically produced ethanol with imported gasohol. The only option would be importation of essentially pure ethanol because importation of ethyl alcohol *mixtures* would result in payment of additional duties disproportionate to the value of the exemption from federal motor fuel excise taxes attributable to the ethanol content of the mixture. The imposition of such a duty would undermine the viability of importing such mixtures. Southland and CITGO anticipate that flexibility to import, on nondiscriminatory terms, either ethyl alcohol or mixtures containing ethyl alcohol may be essential to the success of gasohol marketers in the future. Thus, while not seeking to preserve unintentional benefits, Southland and CITGO request even-handed treatment.

Clearly what is needed is a tariff rate applicable to ethyl alcohol mixtures in which the total duty is proportionate to the ethyl alcohol content of the mixture and equal to any federal excise tax exemption for which gasohol (10% ethyl alcohol/90% gasoline mixture) produced from the imported mixture may qualify. For example, additional duty under Item 901.50 should be paid at the rate of 6 cents per gallon on a mixture containing 10% ethyl alcohol; additional duty should be paid at the rate of 30 cents per gallon on a mixture containing 50% ethyl alcohol; additional duty at the rate of 54 cents per gallon should be paid on a 90% ethyl alcohol mixture; and the full 60 cents per gallon additional duty should be paid only on pure ethyl alcohol imported for use as a fuel or to produce a fuel mixture.

Precedent for the foregoing recommendation exists. In particular, under 26 U.S.C. § 5001(a), a tax is imposed on imported "distilled spirits" (with certain exceptions not relevant here). The rate of tax under section 5001(a) is $10.50 per "proof gallon" and "a proportionate tax at the like rate" is also imposed "on all fractional parts of a proof gallon." A "proof gallon" is defined under 26 U.S.C. § 5002(a)(10) and (11) as a U.S. gallon of liquid comprised one-half by volume of ethyl alcohol of a specific gravity of 0.7939 at 60 degrees Fahrenheit (water at 60 degress Fahrenheit having a specific gravity of 1.0), or the alcoholic equivalent thereof. The effect of this definition is to impose a tax of $2.10 on each gallon of gasohol containing 10% by volume ethyl alcohol.

Southland and CITGO recommend that a similar mechanism be adopted under H.R. 1566 and H.R. 1720 in applying Item 901.50 to fuel mixtures containing ethyl alcohol. Such a mechanism would neither preserve benefits unintentionally bestowed under current law, nor discriminate against imported ethyl alcohol by imposing a total additional duty under Item 901.50 in excess of the value of the exemption from federal excise taxes attributable to the ethyl alcohol content of the imported mixture. Omission of such a mechanism is not warranted by the original purpose of Item 901.50 and would be inconsistent with the free trade principles which generally underlie U.S. trade policy.

SOUTH POINT ETHANOL,
South Point, OH, June 27, 1985.

Mr. JOSEPH DOWLEY,
Chief Counsel, House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR SIR: I am writing to urge the Trade Subcommittee of the House Ways and Means Committee hold hearing on H.R. 1720 introduced by Congressman Durbin and H.R. 1566 and 1567 introduced by Congressman Leach concerning the application of import duties to certain fuel grade ethanol under the Caribbean Basin Economic Recovery Act. Unless these bills or similar legislation is passed by the Congress the Customs Service is likely to allow fuel grade tehanol which normally would be subject to a 60¢ per gallon duty to enter the United States duty free merely because its water content was reduced by processing in a nation which qualifies under the Caribbean Basin Initiative.

In the last several years the federal government has demonstrated on several occasions its commitment to the development of a domestic fuel ethanol industry. This effort began in 1978 following two substantial disruptions in supply of petroleum for the U.S. market. Briefly stated, the thrust of the program was to reduce our dependence on imports of foreign oil through the creation of a domestic industry which would convert this nation's vast surplus of grain to transportation fuels.

This was accomplished through a number of federal and state incentives, including loans, loan guarantees, and energy investment tax credits for the construction of ethanol production facilities and a program of reduced gasoline taxes for refiners, blenders, and retailers who would blend fuel grade ethanol with gasoline for sale to the public. Since it was the government's intention to promote the production of fuel grade ethanol within the United States, a tariff was imposed on imported ethanol destined for the fuel market which has the effect of offsetting the tax incentive for ethanol's use in gasoline blending. This mechanism was chosen because it reduced the administrative burden required to trace imported ethanol to the final customer. By imposing the offsetting duty, all ethanol, once imported, qualifies for the tax incentive for blending with the knowledge that any ethanol imported for this purpose has had the offsetting duty imposed before it enters into commerce. In this manner, the benefits of the excise tax incentive on blended gasohol remain within the United States.

In the case of South Point Ethanol (SPE), the availability of the federal incentives mentioned above were absolutely critical to the formation and subequent realization of this project. The SPE partnership obtained a loan from the U.S. Department of Energy for $24.5 million and a loan guarantee from the Farmers' Home Administration for 90% of a $32 million commercial loan. These two financings, which deeply involve the federal government, were the key elements which launched the project. In addition, the SPE partners relied heavily on the energy investment tax credit incentive to build the plant.

This 60 million gallon per year facility, located at South Point, Ohio, consumes approximately 24 million bushels per year of U.S. grain and 180,000 tons of U.S coal in the process. We have been in operation since September, 1982, supplying ethanol through a network of product terminals in the Ohio River Valley and shipping our high protein distillers' dried grains with solubles to a variety of customers in the eastern U.S. and Europe. With 190 employees, SPE is the largest industrial employer in Lawrence County, Ohio. In addition to our $6 million per year payroll, we account for more than $100 million in goods and services annually. The growth of SPE from a dream in 1980 to reality in 1982 parallels the dramatic growth throughout the U.S. fuel ethanol industry—an industry that has responded to a government mandate to reduce our dependence on imported oil. This government mandate has been confirmed several times in the Congress with increases in the federal excise tax exemption for gasohol and commensurate increases in the offsetting duty on foreign imports—the latest case in point being the increase effective January 1, 1985 which brought the incentive to 6¢ per gallon of blend with an offsetting duty of 60¢ per gallon of imported ethanol. The SPE partnership has committed $120 million to this effort, relying on this demonstrated commitment by the federal government.

Threat posed by cheap imports

Events of the past year indicate that the future of the domestic ethanol industry could be undermined by enormous quantities of substantially underpriced ethanol flooding the U.S. market from outside the country. Fuel ethanol imports have increased from less than five million gallons in 1981 to more than 122 million gallons in 1984, representing more than 21% of the domestic market. The vast majority of these imports have been fuel from Brazil which has been able to reduce the price of its ethanol exports because of the scope of its own government subsidy program. Excess stocks of wine in Spain also increase the threat of additional imports of Spanish ethanol in the U.S. market.

SPE has been particularly damaged by imports of Brazilian ethanol into the Ohio market in the latter half of 1984. These underpriced imports were at least partially to blame for the fact that SPE has yet to record a profit from operations. Certainly the prospect of heavily subsidized, substantially underpriced, imported ethanol flooding the U.S. market is stalling the development of new projects.

Use of CBI to circumvent tariff

Since all fuel grade ethanol, once entered into commerce, qualifies for the federal tax exemption on gasohol blends, foreign ethanol producers could enjoy an overwhelming economic advantage if they were to avoid the duty which offsets this tax exemption. Recent rulings by the Customs Service stating that foreign ethanol need only be upgraded from one proof level to another in a Caribbean country to qualify for duty-free status can be used to circumvent the tariff and will result in irreparable harm to the domestic ethanol industry. Millions of gallons of wet ethanol bound for the U.S. which otherwise would have entered as dutiable anhydrous product are now being dehydrated in Caribbean facilities. These amounts are certain to escalate in the face of a 60¢ per gallon economic driving force unless immediate corrective action is taken by the federal government.

I understand that the Customs Department addressed the idea of upgrading 190 proof to 200 proof in these plants. Thus, the removal of 5% water was declared a substantial transformation. What if the incoming ethanol was actually 192 proof which is a common "spirits" proof level which can be obtained in a conventional hydrous distillery operation; would the extraction of the remaining 4% water constitute a substantial manufacturing process? What if a mixture of 190 proof and 200 proof was loaded on a ship in Brazil and sent to the Caribbean dehydrating plant such that the incoming proof was 195; would the extraction of the remaining 2½% water constitute a substantial manufacturing process? Certainly you see the thrust of my argument that once the erroneous determination is made, the door is open for abuse of an otherwise worthy federal program, the Caribbean Basin Initiative.

While the construction of a dehydration facility that can accommodate 20 million gallons per year of wet ethanol in an azeotropic distillation may require substantial capital investment, I contend that the operating costs are not substantial in relation to the value of the product or in relation to the duty which stands to be avoided. Although SPE does not keep its accounting records in a manner which will enable us to quickly determine the cost of the dehydration step in our distillation train (partly due to integrated heat recovery systems), we have received quotations from others to "dry" a portion of our production. We have, in hand, a proposal to upgrade 197 proof ethanol to nominal 200 proof for 17.1¢ per gallon which includes an element of profit for the upgrader. This represents approximately 10.7% of the value of the product. Furthermore, part of the cost of operating the dehydration facility is offset by the profit inherent when the final product is denatured. For example, when gasoline costing 80¢ per gallon is added to the dehydrated ethanol as a denaturant and subsequently sold for $1.60 per gallon, the upgrader makes an added profit of 80¢ per gallon of gasoline which could be considered as a reduction in the cost of drying the product.

Brazil's fuel ethanol industry, which produced over 2.4 billion gallons in 1984, is currently operating at about 75% of its capacity. They have targeted the U.S. as their primary export market and could produce enough ethanol to export 500 million gallons to the U.S. in 1985, equalling the total U.S. consumption of this product last year. If volumes of this magnitude were reprocessed under the CBI loophole, it would devastate the U.S. industry and cost the Treasury $300 million in duties that would otherwise be collected.

Need for hearings

The intent of Congress when it established the Caribbean Basin Economic Recovery Act was to establish substantial grass roots industries such as that which would cultivate agricultural products and process them into fuel grade ethanol rather than merely establish pass-through operations in which the work performed is of little economic benefit to the Caribbean country and constitutes avoidance of U.S. duties. This is what has been done in Costa Rica and El Salvador where they are now producing ethanol from sugar cane grown in those countries. If heavily subsidized, under-priced ethanol from countries such as Brazil is allowed to merely be dried in the Caribbean to qualify for duty-free status, the grass roots industry will never be developed because it cannot compete with the subsidized feedstock.

I have seen firsthand the devastating impact of subsidized imports being dumped in the marketplace. Congress cannot stand by and watch an ill-advised ruling by Customs create a loophole which would provide an avenue for this subsidized product to not only enter our markets but gain an overwhelming economic advantage by avoiding the 60¢ duty which Congress intended to levy on imported ethanol destined for the fuel ethanol market. We must never lose sight of the fact that we as a country still import ⅓ of our petroleum requirements, while our farmers are faced with lower grain prices or more federal subsidies. The maintenance and continued nurturing of a strong and growing domestic, fuel ethanol industry is a must in order for us to maintain our position as a world power.

I respectfully request that the Trade Subcommittee hold hearings on the above mentioned legislation introduced by Congressmen Durbin and Leach at the earliest available opportunity.

Thank you very much for your consideration.

Very truly yours,

LAUREN L. HILL, *General Manager.*

SUNSHINE-JR. STORES, INC.,
Panama City, FL, June 26, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: Sunshine-Jr. Stores, Inc. is a public corporation that operates three hundred fifty (350) convenience stores in five states. One of the many products that we offer to our customer is ethanol-enriched unleaded gasoline. Our primary source of supply for ethanol is the Tropicana Energy Company. We chose Tropicana as our supply source because of their customer-oriented marketing philosophy. Prior to Tropicana, in dealing with other alcohol companies, we found that they charged what the market would bare.

Obviously, these same large competitors are now trying to penalize Tropicana for their participation in the Caribbean Recovery Act. If either of the above referenced acts are passed, the intent of the Caribbean Recovery Act will be violated. However, the most distateful fact will be that selfish special interests will once again prove more powerful than our national interest and honest competition.

We urge you not to pass these bills.

Sincerely,

JAMES C. BURKHALTER,
Director of Gasoline Marketing.

TESORO GASOLINE MARKETING CO.,
Beverly Hills, CA, June 25, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN GIBBONS: I am writing this letter in opposition to legislation introduced by Senator Dole (S. 575 and S. 576), Representatives Durbin (H.R. 1720), Leach (H.R. 1566, 1567 and 1568) to prohibit ethanol from receiving duty-free treatment accorded under the Caribbean Basin Economic Recovery Act.

The Caribbean Basin Economic Recovery Act of January 1, 1984 was an unprecedented program of trade, economic assistance and tax measure to help the Caribbean to help themselves.

On September 12, 1984 the U.S. Customs Service issued a letter ruling to Tropicana International Ltd., a Jamaican affiliate, involving the transformation of beverage grade ethanol into fuel grade ethanol—in a proposed Jamaica plant. The Customs Service ruled that the change was indeed substantial, and met the 35% transformation requirement outlined in the Caribbean Basin Economic Recovery Act, and would be eligible for duty-free entry into the U.S.

Relying on the Customs decision, Tropicana proceeded to construct a $23 million distillation complex in Kingston, Jamaica. The plant was completed in March of 1985 and employs approximately 30 Jamaicans, and is estimated to return $5 million per year to the Jamaican economy!

The proponents of the aforementioned bills and petitioners before the Customs Service claim that the distillation process used in Tropicana's Jamaican plant is simple, rudimentary and constitutes the removal of water analogous to a mere dilution process.

However, the transformation of beverage grade ethanol into grade alcohol is a complex chemical process requiring the employment of many Jamaicans, and continuing technical support from engineering consultants. The end result of this substantial manufacturing process is a new and different article of commerce having a different use than the constituent beverage ethanol, different chemcial characteristics, and a different tariff classification. Thus, the manufacture of fuel grade ethanol from beverage grade, or 190 proof, is a significant process, and not a "pass through" operation.

Now that a heavily subsidized U.S. industry fears competition from imported ethanol a move to alter the CBERA is being made. A decision in favor of the domestic corn producers would threaten the credibility of the entire CBI program, and would threaten the credibility of the entire CBI program, and would further other industries in the U.S. to follow suit in attempting similar protectionist measures.

The impact of potential loss of business in the Caribbean could prove devastating to the Caribbean countries who have been gearing their economies over the past three years for new and increased business under the CBI. The initiative and the

faith of the Caribbean government may be lost if the integrity of the CBERA is not upheld.

Sincerely yours,

FRANK L. BELLEW,
Assistant to the President.

TEXAS ALCOHOL FUEL ASSOCIATON,
Houston, TX.

JOSEPH DOWLEY,
Chief Counsel, House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: We wish to register with you our approval of the above proposed legislation, and submit our further views on this subject by enclosing a copy of a letter recently sent to the Commissioner of Customs.

Please pardon this method of communicating, but I had only a few minutes to do so in order for this to reach you by the deadline.

Cordially,

W. ALLEN BRAZELL, *President.*

TEXAS ALCOHOL FUEL, ASSOCIATION,
Houston, TX, June 13, 1985.

Re Attempts to wrongfully gain duty-free status for foreign-produced ethanol under terms of the Caribbean Basin Economic Recovery Act. ("CBERA") of 1983, also referred to as the Caribbean Basin Initiative ("CBI").

COMMISSIONER OF CUSTOMS,
Attention: Regulations Control Branch,
Washington, DC.

MR. COMMISSIONER: The issue in this matter appears to be an attempt by a few automotive fuel producers and marketers to subvert for their sole profit a law which is intended to benefit the economies of 27 Caribbean nations, with reflected benefits upon the U.S. welfare. It is an attempt by special interests to enlist the authority and responsibility of your office to circumvent the will of Congress. With intent and objective separate from that of Congress, they are attempting to modify import tariff by virtue of interpretation, rather than by act of Congress.

Th economic value claimed for removing the water that normally remains in distilled ethanol, so as to up-grade the proof (ethanolic content) to 199.5, is grossly exaggerted. The cost of this process should not exceed 1½ cents per gallon. It consists merely of passing the "wet" ethanol through a special fitler, called a "molecular sieve", which separates the water from the ethanol. Only one or two workers per shift can eaily up-grade 60,000–100,000 gallons per day. The slower, more expensive "azeotropis" process of water removal mentioned in customs regulations has long been obsolete.

This dehydration operation, while essential to producing anhydrous ethanol, represents only a tiny part of the total cost of ethanol production. To say that the ethanol, thereby, is substantially transformed or that its value is increased 35%, is without basis in fact. Moreover, an accurate appraisal of the total cost of ethanol must, of course, include the cost of growing and transporting the agricultural feedstock. The economic benefits to a Caribbean nation derived solely from up-grading ethanol would be sparse indeed. If such is an example of the CBERA in action, this aid program will be a disappointment for the 27 Caribbean nations and a display of lack of integrity in U.S. policies.

Here at home, our federal and state governments currently are investing heavily in tax incentives to attract private capital to investments in domestic production of ethanol. The objectives are more income for farmers and less national dependence on foreign fuel. Foreign-subsidized, low-priced, duty-free ethanol entering the U.S. market through the CBERA would discourage private investments and seriously threaten the growth of the U.S. ethanol industry.

Allowing this to happen would place our federal and state governments in direct conflict with their own economic objectives. The only parties to bnefit would be the fuel marketers who would enjoy "wind-fall profits" from buying cheap foreign ethanol and selling it in an "octane-hungry" U.S. market.

It is true that our petroleum industry is seeking large supplies of ethanol, far more than is available domestically. Through not the only "octane-enhancer" available, it is the one preferred by increasing numbers of gasoline producers and blenders to make their fuels comply with the new EPA standards.

We can appreciate the tight supply situation in which the petroleum businesses find themselves; but, in fairness, bear in mind that it is largley a circumstance the industry brought upon itself. Since as far back as 1979, it has held a position of strong opposition to ethanol and its renewable agricultural sources, first as a fuel-extender, then as an octane-enhancer. All along, its members have had the option of investing in domestic production of ethanol from renewable sources, but very few did. They still have this option; but how many will use it?

Some U.S. fuel marketers have already demonstrated their readiness to enlarge our dependence upon foreign fuels. The law of supply and demand does indeed entitle them to seek ethanol from foreign sources if they see a profit advantage in doing so. However, it is the business of our government not to allow them to do so terms that work to defeat our domestic economic promotion programs, subvert our Caribbean aid effort, and erode faith and support in U.S. policies both at home and abroad.

The development of a U.S. ethanol industry holds tremendous potential benefits all across our country. We hope, in this instance, that you will not allow the self-interests of a few to deter its growth. If justification does exist for some adjustments in the tariff on foreign ethanol, let Congress decide it.

In consistency with the intent of the law, Mr. Commissioner, we respectfully urge you to disallow the dehydration of ethanol as a manufacturing process that qualifies the ethanol for duty-free imports status under the CBERA, if the place of origin is not a nation specified in that legislation.

Sincerely,

W. ALLEN BRAZELL, *President.*

TROPICANA PETROLEUM LTD.,
Brea, CA, June 27, 1985.

Re H.R. 1567, H.R. 1720.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As President of Tropicana Petroleum, Ltd., an ethanol producing, blending and marketing firm, I wish to submit the attached comments opposing the above referenced legislation.

Tropicana has built and is currently operating the *only* stand-alone fuel grade ethanol azeotropic distillation facility under the Caribbean Basin Economic Recovery Act which these two bills would impact. As reflected in my attached submission, there is no question that Tropicana has never sought to subvert the letter or spirit of the CBERA. We are currently entering Phase II of our planned Caribbean facilities; plans which, if successful, will employ over 4,000 Caribbean nations' citizens and infuse an impressive quantity of U.S. dollars into those countries. Although these Phase II plans are business confidential, I will be glad to discuss them with you or your designated representative with assurances those plans will remain confidential. Given these Congressional threats to exclude our manufacturing facility from the CBERA, I must express a growing doubt regarding the wisdom of any additional investment in the Caribbean.

We are at a crossroads for making that decision. The overriding consideration in making that decision remains a clear sign from the leadership of the Subcommittee that our investment will not be subject to the whims of one or two Members of Congress.

In addition to my submission, with certain supporting attachments and news articles regarding ethanol, I have enclosed a complete copy of my attorneys' submission to the Customs Service refuting the Section 516 petition allegations by the domestic ethanol producers. Perhaps these documents will give you some idea of the breadth and depth of the unwarranted attacks on our Jamaican facility by the domestic industry.

Please do not hesitate to let me know if there is anything more I can or should do to defeat this legislation.

Respectfully,

RICHARD B. VIND, *President.*

Enclosures.

STATEMENT OF TROPICANA PETROLEUM LTD.

EXECUTIVE SUMMARY

Tropicana invested over $20 million in an ethanol upgrading plant in Jamaica after receiving a letter ruling from the Customs Service that the end product would meet CBERA requirements and qualify for duty-free treatment. The pertinent legislation (HR 1567, HR 1720) was introduced after the plant had been completed and was in operation.

Tropicana placed a great reliance on current law in making its decision to proceed with this project.

Although now using Spanish wet ethanol as feedstock for the plant, we are committed to utilizing 100% local feedstock in the future and are presently exploring the possibility of building ethanol fermentation plants in the Caribbean region.

The domestic ethanol industry is concentrating on this legislation instead of pursuing the provisions for redress contained in the CBERA.

Changing the status on a product two years after passage of the CBERA would set a dangerous precedent, as other investors would be understandably hesitant to invest in a CBI project if they felt the domestic industry could attempt to have the law changed and the product excluded.

Recent decisions by the environmental Protection Agency to phase out lead in gasoline will greatly increase the demand for ethanol at a time when supplies will be severely restricted due to limited domestic capacity. Demand for ethanol will be much greater than the supply for the next several years.

The Jamaican facility can produce only 20 million gallons of fuel grade ethanol per year, approximately 3 percent of 1984 domestic capacity and less than 2 percent of anticipated demand in 1985. There exists no chance that this facility could "injure" domestic ethanol producers.

In light of the lead phase-down and the skyrocketing demand, every additional source of ethanol is needed.

The entire future of the CBERA would be devastated by passage of either of these bills. This is the largest investment made under the CBERA to date and to destroy this project would send the wrong signals to American investors and Caribbean officials at a time when the region is taking on an ever greater importance in world and regional political and economic events.

STATEMENT

My name is Richard Vind and I am the President of Tropicana Petroleum, Ltd., one of the leading independent marketers, refiners, blenders and distributors of ethanol in the United States. I wish to present my comments in opposition to two bills, HR 1567 and HR 1720, which will have a devastating effect on the Caribbean Basin Economic Recovery Act (CBERA), and which will cause my company's recently completed facility to close. These bills would exclude certain fuel grade ethanol from the benefits of the CBERA. This legislation is unwarranted and unnecessary. They seek to change current laws passed only two years ago. These bills are being pursued by the domestic industry in lieu of the safeguards placed in the CBERA by the Congress. Moreover, recent decisions by the Environmental Protection Agency (EPA) will greatly accelerate the increase in demand for ethanol while supplies will continue to be very tight due to limited domestic capacity and production.

Reliance on current law

As you know, the CBERA was passed in 1983 with the enthusiastic backing of members of Congress like yourself, as well as with the full support of the White House. However, the largest single investment under the CBERA, my facility, is now in jeopardy due to HR 1567 and HR 1720. A subsidiary of my company, Tropicana International Limited, has constructed an ethanol distillation facility in Kingston, Jamaica, representing an investment in excess of $20 million. The facility has been completed and has begun operating. This facility transforms beverage grade alcohols into anhydrous fuel grade ethanol using a complex, two-stage azeotropic distillation process. Construction began *only* after my company requested and received a letter ruling from the U.S. Customs Service stating that the end product would meet all of the requirements of the CBERA and be eligible for duty-free treatment.

Tropicana placed total reliance on current laws when it made the decision to build the Jamaican facility. We followed not only the letter but also the spirit of the CBERA.

The CBERA requires that, in order for a product to qualify for duty-free treatment, it must undergo "substantial transformation" in a beneficiary country. An article is substantially transformed for tariff and related purposes when, as a result of a subtantial manufacturing or processing operations, a new or different article of commerce emerges having a name, character or end use which is different from the article from which it was transformed. In the case of the Jamaican facility, beverage grade ethanol of between 150–190 proof is distilled and all but very minute traces of water removed, leaving ethanol of 199.5 proof or higher. Only at this proof is the ethanol suitable for blending with gasoline for use as a motor fuel in the United States. This is distillation accomplished through a process known as azeotropic distillation. An entraining agent is added to the beverage grade alcohol in a complex distillation column where it combines with the remaining water molecules. The water and the entrainer are removed, leaving only the fuel grade ethanol.

Thus, since the original article, beverage grade alcohol and the resulting end product, fuel grade ethanol, have different end uses and are not interchangeable, a new and different article of commerce has been produced. Beverage grade alcohol cannot be blended with gasoline as the water content is too high; it is not feasible to use fuel grade ethanol for beverage use. As stated by the U.S. International Trade Commission in a report on an investigation into ethanol imports from Brazil, "fuel-grade ethanol is a separate and distinct product from all other types of ethanol and is viewed as a separate and distinct product in the marketplace by customers and end-users." [1]

CBI based raw feedstocks

At present, we are utilizing beverage grade ethanol from Spain as the feedstocks for our facility. In the future, we plan to use as feedstock ethanol produced in the Caribbean area. However, more time is needed to develop these local feedstocks. The entire present identifiable Caribbean supply of beverage grade ethanol can only fill 10 percent of the requirements for the plant.

We are planning to build two ethanol fermentation plants in the Caribbean region. We are seeking assurances that sufficient amounts of sugar will be available. Given these current legislative and regulatory attempts to subvert our existing CBI investment, we are closely monitoring Congressional action on HR 1567 and HR 1720 to determine the "non-business" risk such additional investment entails. We are currently in negotiations with the Governments of Jamaica and the Dominican Republic for land on which we can grow sugar cane. We have secured the use of 10,000 acres in Jamaica, but this represents only about ¼ of the supply necessary for efficient use of our planned facility. The world markets are too volatile to be a reliable source of supply. In addition, a world shortage of sugar could send the price to a level where it would not be feasible to use it as a source of supply.

Other companies are also looking into the possibility of locating fermentation plants in this region. It is possible that over $500 million could be invested in the next year and a half for ethanol in CBI nations. However, these plans could come to a screeching halt should this legislation advance. The wrong signals would be given and planned investments would be canceled. The entire CBERA would be threatened if it were to appear that the U.S. was not going to live up to its commitment to offer incentives to American businesses for locating in the Caribbean.

Domestic producers ignore existing CBERA safeguards

Sponsors of the two bills, in their statements made at the time of the introduction of the bills, claim that the domestic ethanol industry is being threatened due to imports under the CBERA. To correct this, they wish to amend the Act to exclude ethanol as an eligible product rather than have the domestic industry use the safeguard provided by CBERA.

In its deliberations on the CBERA, Congress considered the potential effect of duty-free entry into the U.S. of articles produced in accordance with CBERA. Congress then weighed these concerns with the competing policy of promoting economic stability in the Caribbean region. Congress struck the appropriate balance when it passed the CBERA.

The potential of injury to domestic industries from the duty-free entry of merchandise was clearly recognized and addressed by the Congress. Those industries which required and deserved protection from duty-free imports received such protection in the initial legislation.

---

[1] U.S. International Trade Commission, "Determination of the Commission in Investigation No. 701-TA-239 (Preliminary) Under the Tariff Act of 1930." USITC Publication 1678, April 1985.

Furthermore, and most importantly, the CBERA already contains appropriate provisions for redress by domestic industries which believe they are being harmed by CBERA imports. Under the CBERA, a domestic industry, if it feels it is being injured by imports under the Act, may file a petition under the provisions of the Trade Act of 1974. It is curious that domestic ethanol producers have not availed themselves of these statutory remedies. We can only surmise that the domestic industry has not utilized these protective provisions because they would have a very difficult time showing injury to a 625 million gallons per year industry by one small 20 million gallons per year facility.

The CBERA properly sets the enforcement responsibility with the U.S. Customs Service. With the introduction of these bills, the sponsors are making a tacit statement that Customs is not doing its duties in connection with the CBERA. If they wish to make this case, it should be done during oversight proceedings on Customs, not with legislation designed to circumvent Customs' jurisdiction over the CBERA.

The entire CBERA is built around encouraging private investment in the Caribbean to stimulate economic growth and progress. To change the status on one product less than two years after passage of the Act will undermine and devastate the program. No investor would risk investment capital if there was a threat that, as the project neared completion and began operations, the domestic industry counterparts, fearing competition, could attempt to have the law changed and the list of excluded products increased. This is not only unfair, but may also prove to be counterproductive to the domestic ethanol industry as well.

Domestic ethanol supply/demand imbalance

Recent decisions by the Environmental Protection Agency (EPA) to phase-down lead in gasoline and to approve a waiver by the DuPont Co. to sell gasoline blended with up to 5% methanol, along with 2½% ethanol as a co-solvent, will lead to a major increase in the demand for fuel ethanol. Lead in gasoline is used as an octane enhancer. Ethanol is an excellent substitute for lead for this purpose. The decision to reduce lead in gasoline from 1.1 grams per gallon to .5 gram per gallon by July 1, 1985, represents the octane equivalent of about 2.5 billion gallons of ethanol.[2] By January 1, 1986, the allowable level of lead will be only .1 gram per gallon. This drop in octane is equivalent to over 8 billion gallons of ethanol. This is more than 12 times the present domestic capacity and more than 18 times the 1984 level of production.[3]

From 1979 to 1984, without lead phase-down, ethanol blends' market share of total gasoline sales rose from ½ of 1 percent in 1979 to nearly 5 percent in 1984; 10,000,000 gallons to over 546,000,000 gallons of ethanol. It is certainly reasonable that ethanol could garner a 25 percent share of the octane enhancer market. Consequently, the total domestic demand for fuel ethanol could exceed one billion gallons per year over the next two years as the lead phase-down takes effect.

Negligible effect of Jamaican facility production

However, the domestic ethanol industry cannot expand rapidly enough to keep up with the skyrocketing demand increase which the lead phase-down program is already bringing. Other sources of ethanol, such as the Jamaican facility, will be necessary to ensure that refiners do not turn elsewhere for octane enhancers, as they will if they cannot be assured of an adequate long-term suply of ethanol.

The Jamaican plant is designed to produce 20 million gallons of ethanol per year. This represents approximately 3 percent of current U.S. capacity and less than 2 percent of the projected requirements for 1985. The estimated demand, for this year alone, is more than 150% of total 1984 U.S. domestic capacity. Obviously, additional sources of ethanol are necessary to maintain gasohol as an economically feasible alternative to leaded gasoline.

The 1984 capacity of U.S. plants to produce fuel ethanol ranges from estimates of 600 million gallons per year to estimates of over 840 million gallons per year. However, two sources respected within the industry, Information Resources, Inc. and Oppenheimer and Co., set the level at approximately 625 million gallons per year. Additionally, the Department of Energy in its "Sixth Annual Report on Alcohol Fuels" likewise estimates the maximum U.S. capacity at 625 million gallons per year. Several reasons exist for these wide differences of opinion over domestic capacity. Capacity at some facilities is diverted to production of other products, such as high fructose corn syrup or other by-products of wet milling", as the profit of these alter-

[2] Marilyn J. Herman, President, Herman & Associates, in a survey prepared for the 1984 Washington Conference on Alcohol, as quoted in *Alcohol Week*, December 3, 1984.
[3] Ibid.

native products increases relative to ethanol. Some estimates of capacity include plants which for one reason or another are no longer in operation or have stopped ethanol production or were never opened. And some plants have such severe design and operational problems that actual production cannot come anywhere close to design capacity. Thus, it has been suggested that, even with a total domestic capacity of 625 million gallons, 1984 production of 430 million gallons is fairly close to the domestic industry's ability to produce fuel ethanol. Indeed, domestic production has never exceeded 70 percent of claimed capacity. The 1984 production level of 68.8% of capacity clearly fits into this pattern.

If ethanol is to live up to its potential as a replacement for lead, refiners, particularly independent refiners, must be assured that there will be a sufficient and continuous supply of ethanol to meet their octane needs. Without such assurances, many refiners will invest the capital to re-tool their refineries to produce the octane through more expensive refining techniques ("re-forming") or, alternatively, utilize higher priced substitutes because of their supply reliability. What is critical here is that once a refiner makes a commitment to any of the additives that compete with ethanol, or to the large capital expenditure necessary for "re-forming", ethanol is immediately and effectively eliminated from the portion of the market. Thus, the potential is there, but only if the industry can convince refiners that there will be reliable, adequate supplies. Without additional sources of product such as that provided by the Jamaican facility, the supplies simply will not be sufficient.

It is obvious that, in this expanding marketing, protectionist measures such as HR 1567 and HR 1720 are unnecessary. Should such legislation be passed, it will have a disastrous effect on the future of the CBERA and a negligible effect on U.S. ethanol prices (see attached study: "The Effect of Additional Supplies of Fuel Ethanol on U.S. Producers and Consumers").[4] As noted earlier, this project is the largest single investment in the Caribbean Basin under the CBERA; $20 million has already been invested and the project will infuse a minimum of $8 million per year into the Jamaican economy. If this legislation were to pass, the final impact would be severely discourage future investment by the U.S. private sector under the CBERA. The credibility of the entire CBERA would be seriously impaired if this existing project is destroyed by this legislation.

I therefore urge opposition to these two bills so that the underlying principles of the CBERA will be preserved and the Caribbean can truly become "a community of peace, freedom and prosperity".

[Attachments have been retained in the committee files.]

TRUCK WORLD, INC.,
Hubbard, OH, June 17, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, DC

DEAR MR. DOWLEY: This letter is with reference to H.R. 1576 and H.R. 1720. Our understanding is that these bills would prevent the importation of ethanol from certain Caribbean areas. This smacks of attention to special interest, just not beneficial to the American consumer.

We own and operate four pipeline terminals in Ohio. We do not wholesale ethanol, and only retail ethanol blended gasoline via one convenience store facility.

We do recognize the growing importance of an uninterrupted supply of ethanol. Absent the balancing effect of imported ethanol, Congress will be creating huge windfall profits for an unnecessarily protected domestic ethanol industry. The advent of the mandatory lead phasedown will compound this situation. We are facing certain significant demand increase for ethanol—we must have assured supply at competitive prices.

We respectfully recommend non-passage of H.R. 1576 and H.R. 1720.

Very truly yours,

ROBERT E. ISRAEL.

---

[4] Donald L. Martin, "The Effect of Additional Supplies of Fuel Ethanol on U.S. Producers and Consumers", Glassman-Oliver Economic Consultants, Inc., Washington, D.C., June 1985.

STATEMENT OF JOHN J. MOLLER, PRESIDENT, USA PETROLEUM CORP.

This statement is submitted on behalf of USA Petroleum Corporation, a California corporation. USA Petroleum Corporation is an independent retailer of refined petroleum products, headquartered in Santa Monica, California.

Summary and recommendation

We are informed that private industry has relied upon letter rulings from the U.S. Customs Service that ethyl alcohol production facilities in the Caribbean Basin meet the requirements of the Caribbean Basin Economic Recovery Act. We further understand that substantial sums have been invested in reliance upon such letter rulings. We view legislation introduced by Representative Durbin (H.R. 1720) and Representative Leach (H.R. 1567 and H.R. 1568), to prohibit ethyl alcohol from receiving duty-free treatment as currently accorded under the Caribbean Basin Economic Recovery Act, as an attempt to change the rules applicable to the Caribbean Basin Economic Recovery Act in mid-stream to the detriment of the party or parties who have relied upon current law in connection with valid business judgments and economic investments. We believe this is protectionism at its worst. We oppose passage of the proposed legislation.

Discussion

The Caribbean Basin Economic Recovery Act (CBERA) which took effect January 1, 1984 is a program of trade, economic assistance and tax measures designed to help those in the Caribbean region help themselves.

Currently, under CBERA ethanol receives duty-free treatment upon entering the United States if it has originated or undergone "substantial transformation" in a CBI-designated country. The proposed legislation contends that ethanol is currently incorrectly classified under CBERA as being eligible for duty-free entry into the U.S. We believe that the process by which beverage-grade ethanol is transformed into fuel-grade ethanol in the Caribbean-basin countries does qualify as a "substantial manufacturing process" and does produce a "new or different article of commerce".

We are informed that in September 1984 the U.S. Customs Service issued a letter ruling to Tropicana International Limited, a Jamaican affiliate of the privately owned U.S. company ("Tropicana"), involving the transformation of beverage-grade enthanol into fuel-grade ethanol in a proposed Jamaican plant. The Customs service appropriately ruled that a transformation of beverage-grade ethanol into fuel-grade ethanol was indeed substantial, and met the transformtion requirements of the CBERA.

Relying upon the letter ruling, we understand Tropicana constructed a distillation complex in Jamaica at a cost in excess of $20 million. We further understand that the plant, completed in March 1985, employs approximately 30 Jamaicans and is estimated to return $5 million per year to the Jamaican economy.

In late January 1985, well after construction of the Tropicana facility had commenced, the National Corn Growers Association petitioned the U.S. Customs Service to revoke its earlier ruling. Representatives Leach of Iowa and Heftel of Hawaii introduced into congress House Bills 1566 and 1567 which, in effect, would overturn the earlier ruling of the Custom Service. Also, Congressman Durbin (D. Illinois) introduced H.R. 1720 which combines the substance of H.R. 1566 and H.R. 1567.

The motive for legislators from the midwest and the National Corn Growers Association to oppose the inclusion of ethanol under CBERA is the competition that ethanol imports presents to corn producers. Yet, the question of potential injury to corn producers is being inappropriately raised. When the original CBERA legislation was enacted, certain items thought to be competitive with domestic products were exempted from CEBI status. Ethanol was not one of the items exempted. Now that a heavily subsidized U.S. industry fears competition from imported ethanol, a move to alter the CBERA is being made. This move comes only after substantial sums have been invested in reliance upon the clear import of the original legislation.

A decision in favor of the domestic corn producers would threaten the credibility of the entire CBI program. Quite cleary other U.S. industries would follow suit attempting similar protectionist measures.

The original intent of CBERA was to encourage investment and business opportunities in the Caribbean Basin. To allow significant investment to be made and then pull the rug out from under the investors will in effect cause investment in Caribbean countries to move two steps back after having moved one step forward upon initial passage of CBERA. U.S. companies considering investments in the Caribbean will certainly turn elsewhere rather than risk possible recission of CBERA in whole or in part.

The ultimate impact of the proposed legislation could prove devastating to the Caribbean countries which have been gearing their economies over the past three years for new and increased business under the CBI. The faith and initiative of the Caribbean people in our government will be significantly jeopardized and may, in fact, be lost entirely if the integrity of CBERA is not upheld.

STATEMENT OF PHILIP D. CARTER, PRESIDENT, VALLEY GREEN INTERNATIONAL TRADING, INC.

Issues

Bills pending: HR 1566, 1567, 1720, 2354, 2396. Measures with major potential impact on renewable fuel ethanol industry by restricting fuel ethanol imports.

Current status of ethanol industry

Government policies in U.S. and Latin America, most notably Brazil, have encouraged recent and rapid expansion of production of ethanol industries here and abroad as an octane enhancer replacing lead, which EPA is rapidly phasing out.

Prospects

Rapid expansion and momentum in domestic and foreign industries are jeopardized by (a) failure of foreign and domestic producers to reach mutually beneficial working arrangement; (b) tariff legislation limiting growth of ethanol supply in U.S.

Current tax and tariff structure and recommendations

(a) "excise tax exemption"—for sellers of eligible (minimum 10% alcohol) blends, provides for 6 cent exemption from 9 cent Fed. excise tax on motor fuel blends. Most common. (b) "blender tax credit"—60 cents per gallon of ethanol used; in maximum 10% blend. Nonrefundable, taxable. (c) a 60 cent per gallon duty on ethanol imported for fuel use. Equivalent of $25.20 tax per barrel vs. 5.25 cents p.b. for crude and 52.5 cents p.b. on motor fuels.

Recommendation

The stable expansion of ethanol market through increased imports, by reduction or elimination of 60 cent duty, can benefit U.S. producers and consumers.

Benefits and beneficiaries of expanded ethanol market

(a) Oil Refiners Requiring Lead Substitute Octane Enhancers.
(b) U.S. Ethanol Producers.
(c) U.S. Agricultural Producers: Increased demand for grains.
(d) U.S. Financial System: Increased export opportunities for Latin America enhances ability to service foreign debt.
(e) U.S. Environmental Interests: The use of fuel ethanol as an octane enhancer has proven environmental and health advantages over alternative enhancers.
(f) U.S. Geopolitical Interests: (1) Reducing U.S. dependence on foreign oil supplies. (2) Increased export earnings for Latin America encourage economic, political and social stability in a region of clear and vital strategic interest to the U.S.

Thank you, Mr. Chairman. Valley Green greatly appreciates this opportunity to make known its views concerning several of the trade and tariff bills pending before your committee. Trade is an extremely controversial topic these days, with simplistic and often misleading labels compartmentalizing interests into "protectionist" and "free trade" camps. We recognize the very real complexities confronting this Committee, and would like to focus our comments upon several related measures necessary to encourage the expansion of the U.S. renewal fuel ethanol industry on terms beneficial to both the domestic producers and to certain of our nation's allies in this hemisphere.

In your May 16 announcement requesting comments on certain trade and tariff bills, your Committee listed several measures for consideration that have a direct bearing upon the nature and future growth of the U.S. fuel alcohol industry. These bills include the following: HR 1566 and 1567 (Leach, Heftel, et al.); HR 1720 (Durbin, Heftel, Gephardt, et al.); HR 2354 (Anthony); and HR 2396 (Matsui). The latter two bills impact on fuel ethanol only indirectly, in the sense that they would amend the Tariff Schedules of the United States (TSUS) to change current treatment of motor fuel blending stocks like ethanol. The first three bills directly pertain to the importation of fuel ethanol, and address the importation of fuel ethanol in blended motor fuel as well as the treatment of "upgraded" ethanol from Caribbean Basin Initiative (CBI) countries.

In submitting this testimony on behalf of the principals of the Valley Green International Trading Corporation here today, I am representing what we believe is a unique participant in the U.S. fuel alcohol industry: Valley Green principals are involved in the production of fuel ethanol in the U.S. as equity holders of a 40 million gallon per year production facility now under construction in Louisiana: our firm is also involved in the importation of anhydrous ethanol for fuel purposes from Brazil and elsewhere in South America and the Caribbean. As a group, the Valley Green principals have been intimately involved in the evolution of the U.S. and Brazilian fuel ethanol industry, and have substantial familiarity with the public policies and corporate interests that combine to drive the market for this important new fuel and octane enhancer.

The dramatic success of both the U.S. and Brazilian fuel ethanol industries in just the past five years is directly attributable to the implementation of farsighted public policies on the part of both countries' governments. In Brazil, over two million vehicles now operate on "neat" (pure) ethanol derived from sugar cane, and over 90% of all new vehicles are pure ethanol-powered. In the U.S., roughly 6 billion gallons of 10 percent ethanol/90 percent gasoline blends are projected to be sold in 1985, and ethanol is increasingly becoming accepted by our petroleum industry as a viable alternative to lead as a motor octane enhancer. In both countries, producers have risked billions of dollars in capital to invest in facilities that have clearly established the commercial viability of producing high octane ethanol from abundant agricultural commodities. In the U.S. as in Brazil, the public policy "investments" in ethanol have arguably been some of the most cost effective of recent times. Both countries have benefited from a simultaneous "demand enhancement" of agricultural commodities. Agricultural surpluses that would otherwise threaten to require huge outlays to manage (either through acreage reduction or export subsidy programs) have been transformed into a renewable resevoir of a liquid fuel and octane enhancer which displaces costly imported oil and has major environmental and health advantages. The Congress, and this Committee, should be commended for its farsighted role in creating this policy incentive, despite the concerted opposition of many so-called "experts" who predicted major technical failures which have now been entirely disproven. We are confident that Congress will not choose to destroy with one hand what it has chosen to create with the other.

However, we are deeply concerned that these stop-gap measures proposed to Congress to address an immediate controversy could have the paradoxical effect of choking off the forward momentum of the domestic fuel ethanol industry. In fact, it would seem that the failure of many in the U.S. industry to recognize the critical need for achieving a cooperative working arrangment with other ethanol producing nations, particularly Brazil, has led to the introduction of legislation which could lead to unfortunate consequences for domestic producers. The danger, simply put, is that domestic supply can not meet the growing domestic demand. That prospect will have one clear and inevitable consequence: U.S. oil companies who would otherwise be major consumers of ethanol both from U.S. and foreign sources will commit to other alternatives for octane enhancement due to the failure of the domestic industry to establish a secure "critical mass" of supply sufficient to meet the oil industry's needs.

Valley Green strongly believes that the legislation before this Committee, while perhaps well intentioned, would not serve to achieve the objectives its advocates set out for it because it fails to take into account the broader—and critically important—issues of minimum demand levels. While Valley Green does not endorse the maintenance of loopholes that effectively lead to the skirting of the will of Congress, we strongly believe that the exploitation of these loopholes would not occur if U.S. law did not impose such an egregious burden upon the importation of needed supplies of foreign ethanol used as fuel. A recent excerpt from a table submitted to the Senate Energy and Natural Resources Committee by the National Council of Farmer Cooperatives provides a vivid example of the relative enormity of the existing duty imposed on imported fuel ethanol:

Imported duties on selected petroleum and petroleum products

Product	*Tariff in cents/barrel*
Crude Oil and Distillate and Residual Fuels:	
Under 25 API	5.25
25 API or more	10.50
Motor Fuels: Finished Gasoline, Diesel, Jet Fuel	52.50
Naptha and Unfinished Oils	10.50
Ethanol	2,520.00

(Presented at the June 4 Hearing on Impact of Imported Petroleum Products on the Domestic Petroleum Industry.)

More importantly, when we examine the relative tariff burden imposed on the direct competitors with fuel ethanol in the current TSUS, one finds a similar discrepancy in treatment.

Import duties on selected gasoline additives

Product	*Tariff in cents/barrel*
Toluene	Duty free
Benzene	Duty free
Xylene	Duty free
MTBE	[1] Duty free
TBA	Duty free
Ethanol	2,520.00

[1] Duty free (GSP for Brazil).

It is our contention that this exorbitant duty on imported ethanol serves as an unassailable barrier to the rational importation of Brazilian and other fuel ethanol, and that its effect during the past several years has been overwhelmingly negative. First, it has served to reinforce the subtle monopoly of the largest U.S. producer of ethanol (which has been the driving force behind the tariff's imposition and expansion). Second, it has inhibited the efficient marketing of imported ethanol in areas of the coastal U.S. far from the midwestern heartland where domestic ethanol producers have their markets. These hearings present your committee with an excellent opportunity to help encourage the kind of orderly expansion of the fuel ethanol market necessary to persuade oil companies not to make irrevocable commitments to competing and more expensive octane enhancers. In the meantime, those who need access to foreign ethanol, and those who market the product, are compelled by the market place to use every legal "loophole" at their disposal to compensate for the market imbalance created by the existing treatment of imported ethanol. It is Valley Green's belief that the Committee should not move to enact the proposed legislation addressing these loopholes without simultaneously addressing the need for restructuring the duty on imported ethanol used as fuel.

Current duty imposed without benefit of in-depth hearings

The existing 60 cent per gallon duty on imported fuel ethanol was initiated in the Senate in the Omnibus Reconciliation Act of 1980 (during the lame duck session following the November elections of that year). The House resisted the legislation, but the insistence of Senate conferees resulted in a compromise emerging that called for the imposition of a graduated schedule that was to culminate in a 40 cent/gallon duty (equivalent to the then-4 cent/gallon excise tax exemption). On two separate subsequent occasions when the Congress acted to increase the exemption for ethanol blended gasolines—the Surface Transportation Act of 1982 and the Deficit Reduction Act of 1984—the duty was raised to its current 60 cent/gallon level. In both cases, the duty increase occurred despite the objections of the President's Special Trade Representative and, most importantly, without the benefit of hearings. In fact, the question of whether or not the imposition of the duty made good public policy sense was never afforded the benefit of a careful hearing by the Congress at any time during the actual consideration of the fuel ethanol exemption increases when the duty increase was pending. To this Committee's credit, the Subcommittee on Trade did take testimony on this issue on June 15, 1981, on two bills—HR 1981 and HR 2317—that sought to repeal the duty on imported ethanol, but the legislation did not emerge from the Subcommittee. It seems fair to say that the utter absence of normal Congressional review procedures on an issue of such major importance to regional trading relations, ethanol supply availability questions, and agricultural utilization trends are major factors in the present controversy over the duty's overly restrictive nature, and the growing doubt even by many of its previous supporters in the U.S. ethanol industry that present law realistically addresses the evolving needs of a dynamic market.

This is not to say that we expect Congress and the domestic fuel ethanol industry to ignore the legitimate rights of the U.S. fuel ethanol producer to protect itself from predatory pricing and unfair competition. There are in fact instances where the "infant industry" argument does apply, and as persons with interests in a U.S. fuel ethanol facility, we can fully understand the concern of U.S. ethanol producers over inefficient and irrational marketing of foreign product that leads to price distortions or otherwise merely duplicates domestic marketing efforts. However, we also strongly believe that the "best of both worlds" can be achieved in terms of

bringing about the critically needed expansion of the U.S. fuel alcohol market at this critical juncture. Doing so will require Congress to make some relatively straightforward adjustments to the existing duty structure. We urge this action in the firm believe that natural market forces would "expand the pie" of fuel alcohol demand in a stable manner and would prove highly beneficial to domestic producers. One clear result of this action will be the natural segregation of the U.S. market for ethanol into two complimentary segments, one based on foreign supply, the other on an expanded base of domestic production. The benefits of this action would flow to a host of interests, including octane short refiners, domestic and foreign ethanol producers, free trade interests, environmentalists, and the creditors of ethanol-exporting nations like Brazil.

Proposed modification of existing duty structure

As set out in the official report of the Subcommittee on Oversight's hearing on the "Tax Incentives for the Production and Use of Ethanol Fuels" held last summer in Sioux Falls, South Dakota, there are two alternative fuel use tax incentives available to marketers of ethanol blends. The first of these, commonly known as the "excise tax exemption", is the most commonly used incentive, and provides sellers of eligible fuel alcohol blends (those which contain alcohol produced from other than petroleum, natural gas, or coal) with an exemption of 6 cents from the 9 cent Federal excise tax on motor fuels. This exemption applies to the tax imposed by IRC sections 4041 and 4081, and it is differentiated from any other in that it requires that the eligible alcohol be blended in "at least 10 percent alcohol" amounts. Complementing this Federal exemption, roughly 32 states have enacted comparable state tax exemptions (primarily due to the agricultural interests' support for the development of a new outlet for grains), of which all but two require that at least 10 percent alcohol be used.

The second fuel use incentive—the so-called "blender tax credit"—has so far received less attention, but it holds enormous potential for the expansion of the U.S. market. This exemption, which occurs in IRC Section 44E, can be used if the excise tax exemption is not claimed, and is equivalent to 60 cents per gallon of ethanol used. It is a nonrefundable, taxable credit, and is most easily distinguished from the excise tax exemption by the fact that it applies to the use of eligible alcohol in any percentage from 1 to 10 percent.

Current law imposes a 60 cent per gallon duty on ethanol imported for use as fuel (19 USC 1202) whic applies to product used with either credit, whether it be the excise tax exemption or the blender tax credit.

If the Congress were to provide preferential treatment to imported fuel ethanol destined for use as a motor fuel blending component (i.e., for use in its high value application as an octane enhancing additive as a replacement for lead) where only the blender tax credit is used, it is clear that the current conflict between domestic and foreign ethanol interests could be transformed into a valuable cooperation. The elimination of the duty on blender tax credit material would irrestibly draw imported ethanol into regions of the U.S. where state tax credits do not now exist, and where domestic ethanol is not now marketed in volume. Imported ethanol could be used efficiently in less than 10 percent blends using the Section 44E credit, as an octane enhancer either by itself or as a cosolvent with the abundant supplies of cheaper methanol. As this committee is no doubt aware, methanol has different chemical properties than ethanol, and cosolvents like ethanol are required to prevent corrosion, phase separation, and volatility problems. Fuel alcohol blends, using imported ethanol, have a comparative advantage over domestic ethanol only in coastal markets served by major ports. This natural market segregation occurs because overland transportation of domestic ethanol requires trucks or railcars. Railcar transport is over 30 times more expensive per ton/mile than is waterborne transportation. Market forces would encourage fuel alcohol blends to penetrate the octane short markets of the high population areas of the Atlantic seaboard, Gulf regions, and West Coast where replacements for lead are badly needed for environmental and health reasons, without impacting the traditional U.S. ethanol markets of the agricultural Midwest. In the process, a number of interests would benefit, as the brief checklist that follows demonstrates:

Octane short refiners

EPA's recently promulgated lead phaseout, which calls for a 90 percent reduction of lead content in gasoline from 1.1 grams per leaded gallon (gplg) to .1 gplg effective January 1, 1986, has been estimated by experts to lay the groundwork for a U.S. refinery octane gap of an "alcohol equivalent" equal to 60 billion gallons over the next decade. (To give some measure of comparison here, the U.S. fuel ethanol industry will produce approximately 500 million gallons of ethanol in 1985.) It is ob-

vious that refiners will not turn to alcohols as their exclusive means of closing this octane shortfall, but there are increasing signals that ethanol, methanol, and the combination of the two may be the preferential option from the perspectives both of commercial refiner interest and public policy. Part of the reason for this lies in the fact that some of the primary alternatives to lead, such as processing options like reforming and isomerization, are not only extremely capital and energy intensive, but they also result in the generation of an aromatics stream whose principal components consist of suspected carcinogens like benzene and xylene (see attached articles). There are many experts who believe that it is a much wiser course of action for U.S. refiners—especially struggling independents who may not have the capital resources to make the huge investments necessary to install this equipment—to purchase fuel alcohol as the high octane additives to meet their octane needs. In the process, motorists would benefit from a high quality, environmentally preferred high octane fuel that has historically been marketed one to three cents per gallon under the cost of "conventional gasoline" of comparable octane.

U.S. ethanol producers

As an investor in a domestic facility I recognize the benefit to US fuel ethanol producers from an increase in supplies of imported ethanol, and the consequent expansion of the domestic market that would be achieved. Domestic ethanol producers would gain from the rational and orderly marketing of increased supplies of imported ethanol in several ways: (1) As mentioned previously, the perception of U.S. oil companies and large blenders that adequate and secure supplies of competitively priced ethanol were available would serve to forestall their making irrevocable commitments to other octane enhancing alternatives like processing, MTBE, and others; (2) the increased supplies of imported ethanol that would become available in areas where fuel alcohol is not presently marketed would contribute to the increased "acceptability" of the alcohols, which is especially important in terms of the cost reductions that would flow from such acceptance. For example, pipelines would be more inclined to provide suboctane gasoline product in volume for more efficient terminal blending, systems would be "dried out", and the U.S. gasoline marketing system in general would be more likely to value fuel ethanol at its true value for octane enhancement, rather than the currently discounted price below regular unleaded gasoline which the market imposes as a penalty for alcohols' present lack of fungibility; (3) The entire fuel alcohol industry would benefit from a resolution of trade friction, and a stimulation of cooperative efforts, including technology exchanges and improved education campaigns directed at American motorists and policymakers, would do much to magnify the base of support for expanding our domestic fuel ethanol industry.

U.S. farmers would also benefit directly and indirectly. Grain producers would benefit from increased demand enhancement as prospective ethanol producers built new production capacity on the strength of increased assurances of mid- to long-term ethanol markets among U.S. refiners and blenders. In addition, the dollar earnings of countries like Brazil and other ethanol exporting nations in South America and the Caribbean would facilitate increased purchases of wheat, feedgrains, and protein products from U.S. producers as these nations upgrade their populations' diets. Finally, as the attached copy of a recent editorial by Congressman Cooper Evans (R-IA) argues, U.S. agricultural producers could also benefit by the striking of countertrade arrangements with foreign ethanol producers, such as his proposal for barters of U.S. wheat, corn, and protein products (such as the high protein DDG that results from the production of ethanol from corn in the U.S.).

U.S. geopolitical interests in the Caribbean and South America

The adjustment we recommend here in the duty on imported ethanol could also have major beneficial impacts on U.S. foreign policy and geopolitical interests in the Southern Hemisphere, where sugarcane production constitutes the weak and vulnerable backbone of many of our allies' economies. Certainly, the prospects for an upturn in world sugar prices are increasingly dim, and the effects of the steadily declining sugar prices for many of the region's economies are devastating. Part of the cause of this catastrophic price decline in the world price of sugar has been the protectionism of developed countries like those of the EEC and the U.S. Here and in Europe, high barriers to entry of foreign sugar have been encouraged by some of the largest producers of fuel ethanol, since they are also producers of fructose, a sugar substitute produced from corn. As Congressman Steve Solarz pointed out in a recent address before the Sugar Users Group (the Congressional Record reprint attached here), ". . . in the case of sugar we have an absolutely classic example of how our policy on trade is running completely counter to other extremely important American foreign policy interests." Solarz went on to note the following: "If our sugar

policy is at odds with our foreign aid program in Central America, it also deepens the debt problem of such nations as Argentina and Brazil in South America—which are not recipients of significant amounts of our economic assistance, but which do depend to a large extent on exports to the U.S. to raise the revenues they need to solve their growing problem associated with the debt crisis. Export earnings from sugar sales to the United States have declined precipitously for both these countries. Four years ago, Brazil earned $388 million from sugar sales in the U.S. Their current annual earning total is at only about one-fourth that level."

It makes overwhelmingly sense for the U.S. to redirect its ethanol policy by easing the entry of imported ethanol. This will thereby assist U.S. refiners to meet the looming octane shortfall, and we will provide our sugar producing allies to the South with a major new outlet for their crop. Our long-term strategic interests in Latin America are ultimately inseparable from regional economic security. The benefits of such an economic stimulus would rival those of any weapons or defense program we might otherwise implement to preserve the social and political security of our sugar-producing allies.

U.S. environmental interests

In the wake of the EPA's lead phaseout announcement, the environmental community's shouts of commendation have been tempered by the sobering realization that there is a very real shortage of environmentally benign octane alternatives. I have already mentioned the growing awareness of the substantial cancer risk posed by substances generated by increased refinery processing (article attached), and certain Congressmen have already written the Office of Technology Assessment requesting a fullscale review of the costs to U.S. taxpayers and motorists if the health risks eventually require a strict limitation or even ban on benzene and xylene (letter attached). Obviously, U.S. environmental and health interests would be advanced by the use of increased supplies of imported ethanol as a lead replacement, thanks to ethanol's superior environmental and health effects.

U.S. banks and financial interests

One of the major concerns of U.S. financial institutions holding large amounts of debt in sugar producing countries, especially those like Brazil, is that the rising tide of protectionism is choking these nations' ability to earn dollars through exports. In sugar, steel, aircraft, textiles, and now ethanol, Brazil in particular has been told by the U.S. that it cannot export to earn dollars. There is no other way for Brazil to repay its $100 billion plus debt, and it is very important that U.S. policymakers identify niches in which Brazilian products can earn the dollars Brazil need. Ethanol is one of the most logical sources of Brazil's dollar needs in the near-, mid- and long-term.

Summary

Mr. Chairman, your Committee has the large and difficult task of determining the legitimacy of various claims of some U.S. industry groups that they face unfair foreign competition. I urge you to balance those claims against the critical need for the optimum maintenance of a fair and open hemispheric trade. As the representative of a U.S. firm with interests both in the production of ethanol in the U.S. and the importation of fuel ethanol for blending with gasoline from Brazil and Caribbean, nations, I would like to summarize my position as follows. The bills you have before you to close off various exceptions in the rigid duty structure imposed on imported ethanol would not be necessary if a reasonable approach were taken in the case of the duty itself. I strongly urge that the Committee not proceed with HR 1566, 1567, 1720 or 2396 outside of the context of a complete review of the alcohol tax incentive/import structure. If after the review the committee must proceed with the legislation, it should include the elimination of the current import duty on ethanol for fuel as long as it is used as a motor fuel blending component with the blender tax credit, as opposed to the excise tax exemption. The U.S. gasoline market is a huge pool of potential demand for fuel alcohol. The challenge to this committee is to help expand the use of both imported and domestic ethanol on terms that will encourage the survival of a clean and renewable national energy resource, and not its premature death.

In closing, we must not forget that the importation of a single barrel of foreign ethanol, if efficiently blended, displaces up to two barrels of imported crude. This is one of the major rationales of the Congressionally mandated fuel alcohol programs. And the impositon of an import fee of more than $25 per barrel is completely inconsistent with the national interest.

(Attachments have been retained in the committee files.)

WEST ENERGY RURAL RESOURCE CORP.,
Scottsdale, AZ, June 26, 1985.

JOSEPH DOWLEY,
Chief Counsel, House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: On behalf of WERRCOR, I would like to submit some comments regarding the Caribbean Basin Initiative as it relates to the import of duty-free fuel.

We strongly endorse House bill 1720 as well as House bills 1566 and 1567, for the following reasons.

Both federal and state tax incentive programs have been instituted for the fuel alcohol industry to aid in industrial development within individual states. The intent of these programs is further to encourage the use of agricultural products on a local basis-that hopefully aiding in the stabilization of farm prices and reducing agricultural dependency on price support structures.

It is our opinion that any additional redistillation facilities attempting to quality under the substantial transformation rule in any CBI country should not be allowed. The economic benefit to a CBI country is insignificant in the redistillation process and is quite obviously an attempt on the part of the owner/operator of these facilities to circumvent the import duty imposed by law.

It appears to us that the redistillation or dehydration plants are simply a means of "taking advantage" of a loop-hole for personal gain and has no real benefit for the involved country under the CBI. To the contrary, it appears that a confirguration of this is counter-productive to the intent of federal and state legislative efforts and certainly discourages private development in the U.S.

West Energy Rural Resources/is a developer of ethanol facilities, and we thank you for the opportunity to submit the aforementioned comments. It is the interaction of business and goverment that makes our nation great.

Sincerely,

FRED J. WEYH,
Vice President, Research and Development.

[Telegram]

LONDON, *June 27, 1985.*

Mr. J.L. DOWLEY,
Chief Counsel, Committee of Ways and Means, House of Representatives, Longworth House Office Building, Capitol Hill, DC.

We are the West Indies Committee, a long established British non-profit making institution, operating under a royal charter to promote the development of countries in the Caribbean Basin with both our own and the U.S. administration and non-profit private sector organizations in the Caribbean, Central America, Washington and Canada to attempt to encourage investment in the Caribbean Basin. Our executives includes board members of most major British companies with an involvement in the Caribbean Basin, members of Parliament and all Caribbean high Commissioners in London.

We are thus deeply concerned about current moves to prohibit Caribbean ethanol from receiving duty-free treatment currently available under the Caribbean Basin Economic Recovery Act [CBERA]. Not only will any such moves deeply effect Jamaica at a time of considerable political and economic difficulty, but it would drastically effect the Caribbean Basins ability to promote CBI as offering secure long term access for investors and manufacturers to the United States Market.

If CBERA is to be made to work for the region, then investors making use of its 12 year low tariff or duty-free entry aspects must be assured that its provisions are not subject to amendment. If the proposed changes to CBERA are made it will cast doubt on the whole act and seriously jeopardise all our's and our colleagues efforts to involve third nation investors to combine with U.S. business to bring investment, economic development and stability to the countries of the Caribbean Basin.

Sincerely,

SIR GEORGE BISHOP, *President.*
CHRISTOPHER THORNTON, *Chairman.*
DAVID JESSOP, *Director.*
WEST INDIES COMMITTEE.

H.R. 1629

To amend the Agricultural Act of 1949

See statements of American Farm Bureau Federation, Paul A. Drazek; and California Farm Bureau Federation, Henry J. Voss, under H.R. 110.

U.S. International Trade Commission

Section-by-section analysis [1]

The proposed legislation would amend the Agricultural Act of 1949 by adding a new section requiring the President to proclaim quantitative restrictions on imports of enumerated milk protein products. These products—casein, caseinates, lactalbumin, whey protein consentrates, and mixtures containing 5 or more percent of any of the first four products—are among the few cow's milk derivatives not subject to quotas under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624). Imports of these articles would be limited to a quantity equal to 50 percent of the average annual import level during 1979 to 1983. Such a proclamation would be considered to be issued under section 22 and to meet that provision's requirements. The quotas would be administered through the use of licenses issued by the Secretary of Agriculture to three specified groups of importers or users. The Act, which contains no terminaton date, would be effective upon enactment.

Background

Description and uses.—The subject products are all proteins of milk. Casein and mixtures of casein (caseinates, or water-soluble forms of casein) account for the great bulk of the imports affected by the proposed legislation. Casein, one of the most complete proteins known, constitutes about 80 percent by weight of the protein of milk. When butter is made from whole milk, the liquid portion that remains (skim milk) can either be dried into nonfat dry milk or be processed into casein. When skim milk is processed into casein, casein whey remains.

Lactalbumin constitutes about 20 percent by weight of the protein in milk and generally has a protein content of at least 75 percent. Lactalbumin of foreign origin is made from casein whey; however, in the United States lactalbumin is reported to be made from cheese whey. The proper classification of these articles has until very recently been hard to ascertain, due to product variation and to tariff descriptions. On October 1, 1981, the U.S. Customs National Import Specialist for dairy products issued informal advice to various U.S. ports of entry and specified that, for tariff classification purposes, lactalbumin then classified as "other albumen" in Tariff Schedules of the United States (TSUS) item 190.15 [2] should contain at least 75 percent protein by weight. The issuance further said that products containing less than 75 percent protein should be considered as whey protein concentrate and classified as "other edible preparations" under TSUS item 183.05 (now provided for in item 118.35, whey protein concentrate). Imports of whey protein concentrate and lactalbumin are not subject to section 22 quotas.

Domestic whey protein concentrate is concentrated from cheese whey, the liquid portion that remains after cheese is made from whole milk. On September 4, 1981, the Food and Drug Administration issued regulations setting a minimum protein content of not less than 25 percent by weight for whey protein concentrate; no maximum is designated, but it generally has a protein content of about 34 percent. Although whey protein concentrate generally is recognized in the trade as having a lower protein content than lactalbumin, the terms by which the two products are identified often have been used interchangeably. The term "mixtures containing not

---

[1] H.R. 1629 is nearly identical to H.R. 431 (A.J. O/TA & TA-85-03 approved April 5, 1985).

[2] Now classified in TSUS item 118.40 if containing 40 percent or more protein by weight. (Section 123 of Trade and Tariff Act of 1984, 98 Stat. 2955. This section also created items 118.35 and 118.45, discussed below.)

less than 5 per centum of any product" (casein, caseinates, lactalbumin, or whey protein concentrates) can encompass a wide array of products, some of which (or some component of which) might be subject to quotas.

Prior to the 1960's, casein was used chiefly for industrial purposes such as in the manufacture of glues, paper coatings, paints, and plastics. During the early 1970's, however, the bulk of the usage of casein and of mixtures of casein shifted to food and feed. Based on data collected by the Commission in Investigation No. 22-44,[3] about 85 percent of the casein and mixtures of casein was used in food and feed in 1980 and 15 percent was used for industrial purposes. Of that used for food and feed, about 31 percent was used for the production of imitation cheese, 16 percent for pet foods and animal feeds, and 10 percent for coffee whiteners. Lactalbumin was principally used as a protein complement in cereal and breakfast foods, pet foods, and high-protein and diet foods. Whey protein concentrates of domestic origin are used in articles such as bakery products, miscellaneous high-protein and diet foods, and animal foods. The imported product, which is higher in protein and therefore lower in lactose, is used in a wide variety of foods where functional properties such as whipping or foaming are desired, in certain medical applications requiring low lactose levels, and in a number of foods to fortify their nutritional values. Lactalbumin and whey protein concentrate appear to be essentially interchangeable in many uses. Price probably is the determining factor in decisions regarding the use of these products in many applications. During the investigation, a number of firms reported that in some uses lactalbumin, whey protein concentrates, casein, and nonfat dry milk were all competitive as a source of protein.

Imports of casein, mixtures of casein, lactalbumin, and whey protein concentrate from countries or areas which have not been declared free of rinderpest and foot-and-mouth diseases by the U.S. Secretary of Agriculture are subject to regulations of the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) (9 CFR 94.16). Essentially, imports from countries or areas not declared free of the diseases, as well as products made from such imports, are not to be used in animal feed in the United States, except under limited circumstances set forth in the regulations issued by APHIS. However, imports from such countries or areas may be used in human foods in the United States because the virus is not injurious to human health. These imports may also be used for industrial purposes.

Purpose.—The sponsor of the proposal indicated that it was intended to prevent problems in the administration of the U.S. dairy program and to help U.S. farmers in dealing with import competition (especially as to casein).[4]

Prior investigations

On January 15, 1982, the Commission submitted to the President its report on investigation No. 22-44, conducted under section 22 of the Agricultural Adjustment Act (7 U.S.C. sec. 624), on casein, mixtures in chief value of casein, and lactalbumin. On the basis of the information developed in the course of the investigation, the majority of the Commission found that casein, mixtures in chief value of casein, and lactalbumin (then provided for in items 493.12, 493.17, and 190.15, respectively, of the TSUS) are not being, and are not practically certain to be, imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program for milk undertaken by the USDA, or to reduce substantially the amount of any product processed in the United States from domestic milk. On April 9, 1982, in accordance with the Commission's recommendation, it was reported that the President would take no further action with respect to the imported products. In that investigation, imports of casein accounted for most of the quantity and value of the imports examined by the Commission.

Comparison with present law

As noted above, effective November 14, 1984, section 123 of the Trade and Tariff Act of 1984 reclassified certain milk protein products, including whey protein concentrate, lactalbumin, and milk protein concentrate. (The latter product formerly was provided for as a mixture in chief value of casein, but it is not enumerated in this legislation.) The amendment did not involve changes in the rates of duty or make the products subject to quotas under section 22 of the Agricultural Adjustment Act.

---

[3] *Casein, Mixtures in Chief Value of Casein, and Lactalbumin: Report to the President . . . on Investigation No. 22-44 . . .*, USITC Publication 1217, January 1982.

[4] *Congressional Record* of March 20, 1985, page E1015.

Tariff treatment under the TSUS.—The subject products are classified in the following TSUS items: item 118.35 (whey protein concentrate), item 118.40 (lactalbumin), item 493.12 (casein), and item 493.17 (mixtures of casein). The current rates of duty [5] for these products are shown in the following tabulation:

TSUS item No.	Description	Col. 1 rate of duty	Col. 2 rate of duty
118.35	Whey protein concentrate	10% ad val	20% ad val.
118.40	Lactalbumin	Free	Free.
493.12	Casein	Free	Free.
493.17	Mixtures in chief value of casein (other than a product described in item 118.45).	0.2¢ per lb	5.5¢ per lb.

These rates of duty were not reduced as a result of the Tokyo round of the Multilateral Trade Negotiations (MTN), and there are no LDDC concessionary rates for these tariff items.[6] However, all of the covered products are eligible for duty-free entry under the Caribbean Basin Economic Recovery Act (CBERA); [7] and the mixtures covered by item 493.17 are eligible for duty-free entry under the Generalized System of Preferences (GSP).[8] The ad valorem equivalent of the column 1 rate of duty for imports of mixtures of casein under item 493.17 averaged 0.2 percent in 1984. A small quantity of imports of the subject products came from countries or areas subject to column 2 rates of duty.

Tariff treatment under the proposed Harmonized System (HS).—The tariff classifications for the subject products under the HS are shown in the tabulation on the following page.

[5] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[6] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[7] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[8] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

CERTAIN MILK-PROTEIN PRODUCTS: U.S. RATES OF DUTY, BY HS SUBHEADINGS

HS heading	Article description	Col. 1-General rate of duty [1]	Col. 2 rate of duty
	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included:		
	Whey, whether or not concentrated or containing added sugar or other sweetening matter:		
0404.10.40	Dried [2]	3.3¢/kg	6.6¢/kg.
	Casein, caseinates and other casein derivatives; casein glues:		
3501.10.00	Casein	Free	Free.
	[Other:]		
3501.90.50	Other	0.44¢/kg	12.1¢/kg.
	Albumins, albuminates and other albumin derivatives:		
3502.90.00	Other	Free	Free.

[1] To be effective upon implementation of the HS. From September 1984 draft.
[2] Certain articles provided for herein may be subject to quotas. See ch. 99 and statistical note 1 to this chapter.

Structure of the domestic industry

Whey protein concentrate is produced by an estimated 20 to 30 firms in the United States. Production is believed to be concentrated in Wisconsin, California, New York, and Vermont, where the production of cheese is significant. Thomas Technical Services of Greenwood, Wisconsin is reported to be a large producer of whey protein concentrate. According to information furnished by the Whey Products Institute, 130 North Franklin Street, Chicago, Illinois, lactalbumin has been produced by several U.S. firms only during the past few years. One of the largest producers is Express Foods of Fairfax, Vermont. Other producers are located in California and Wisconsin, according to the Whey Products Institute.

Casein is not produced in the United States; caseinates are produced in the United States, but only from imported casein. Therefore, except as noted earlier, the domestic industries which would be most directly affected by the legislation are those using casein and mixtures of casein as ingredients in their product mix.

Among the affected industries are those producing such foods as imitation cheese, coffee whiteners, bakery products, frozen desserts, whipped toppings, and breakfast and diet foods; those that produce calf milk replacer and other animal feeds; those that produce medical/pharmaceutical products; and those that produce adhesives and paper products. Among the large companies involved are Anderson Clayton Foods, P.O. Box 6165, Dallas, Texas 75222; Dean Foods Company, 1126 Kilburn Avenue, Rockford, Illinois 61101; Borden Foods, 180 East Broad Street, Columbus, Ohio 43215; L. D. Schreiber Cheese Co., Inc., P.O. Box 610, Green Bay, Wisconsin 54309; the Fisher Cheese Company, P.O. Box 409, Wapakoneta, Ohio 45895; and National Casein Sales, 601 West 80th Street, Chicago, Illinois 60620.

Data are not available on the sales of products containing casein or mixtures of casein by these companies or on their employment. However, some of them are among the largest food-processing conglomerates in the United States, and some are multinational firms.

Domestic production

According to the USDA, production of whey protein concentrate increased from 70.6 million pounds in 1982 to 86.3 million pounds in 1983 and to 95.1 million pounds in 1984. Although data are not available, production of lactalbumin is believed to be much smaller than the production of whey protein concentrate.

U.S. production of casein declined precipitously in the early 1950's following the establishment of the price support program for milk and butterfat as required by the Agricultural Act of 1949. Under this program, the USDA established a purchase price for nonfat dry milk (as well as for butter and cheddar cheese). As a result, the domestic supply of skim milk used for the production of casein was subsequently diverted to the production of nonfat dry milk, because domestic production of casein became less profitable than the production of nonfat dry milk. Since the late 1960's, imports of casein have been the sole source of supply for the United States. Caseinates are produced by a few firms in the United States, but only from imported casein.

U.S. imports

Imports of whey protein concentrates are estimated to have been in the range of 550,000 to 800,000 pounds (valued from $1.0 million to $1.5 million) annually in recent years, with only a slight upward trend occurring. The products are imported primarily from New Zealand, with lesser amounts from Australia and Denmark. The principal importer is New Zealand Mlk Products, Inc., Petaluma, California 94952.

During 1980–84, U.S. imports of casein ranged from 112 million pounds (1981) to 160 million pounds (1984) (table 1) and showed an upward trend. New Zealand, Ireland, Australia, and France have been the principal sources of such imports. In 1984, New Zealand supplied 49 percent of the imports and Ireland 24 percent. Imports from column 2 countries (believed to be solely imports from Poland) have been small. Among the principal U.S. importers of casein are: New Zealand Milk Products, Inc., Petaluma, California 94952; Western Dairy Products, San Francisco, California 60000; Erie Casein Co., Inc., Erie, Illinois 61250; Fisher Cheese Company, Inc., Wapakoneta, Ohio 45895; and National Casein Sales, Chicago, Illinois 60620.

During 1980–84, U.S. imports of mixtures of casein ranged from 16 million pounds (1981) to 32 million pounds (1984) (table 2) and showed an upward trend. New Zealand, the Netherlands, and Denmark have been the principal sources of these imports; there were no imports from column 2 countries. In 1984, New Zealand supplied 50 percent of the imports, the Netherlands supplied 24 percent, and Denmark supplied 12 percent. Among the principal U.S. importers of mixtures of casein are: New Zealand Milk Products, Petaluma, California 94952; DeZann, Inc., Hackensack, New Jersey, and Erie Casein Co., Inc., Erie, Illinois 61250.

During 1980–84, U.S. imports of albumen, virtually all of which are believed to be lactalbumin, ranged from 1.7 million pounds (1980) to 3.4 million pounds (1984) (table 3) and showed no discernible trend. New Zealand supplied most of the imports during the period; there were no imports from column 2 countries.

U.S. exports

U.S. exports of the products described in the legislation have consisted almost exclusively of mixtures of casein, all of which have been made from imported casein. During 1980–84, exports ranged from 596,000 pounds (1982) to 2.8 million pounds (1984) (table 4). About 82 percent of the 1984 exports went to Mexico. Data are not available on the principal exporters of mixtures of casein.

Apparent U.S. consumption

During 1980–84, apparent U.S. consumption of casein and mixtures of casein increased irregularly from 139 million pounds to 189 million pounds (table 5).

Imports of albumen, not specially provided for, as shown in table 3, are believed to consist almost exclusively of lactalbumin. Data are not available on production or exports of lactalbumin, but they are believed to be small. Thus, imports, which ranged from 1.7 million pounds to 3.4 million pounds annually during 1980–84, are believed to be nearly equivalent to consumption.

Imports of whey protein concentrate are estimated to have averaged from 550,000 to 800,000 pounds annually in recent years. Exports and year-end stocks, if any, are probably small. It appears, therefore, that domestic production of the product, which increased from about 71 million pounds in 1982 to 95 million pounds in 1984, is approximately equivalent to consumption.

Effect on revenue

Since U.S. imports of casein and lactalbumin enter free of duty, enactment of this legislation would not affect customs revenues as to these products. However, the amount of revenue collected on imports of whey protein concentrate and on mixtures of casein could be affected. Imports of whey protein concentrate are estimated to have been valued from $1.0 million to $1.5 million annually in recent years, and duties collected were $100,000 to $150,000. If the legislation had been in effect during 1984, imports of this product would have been curtailed by 50 percent and the loss of revenue would have ranged from $50,000 to $75,000. Imports of mixtures of casein averaged about 23 million pounds during 1979–83. If the legislation had been in effect during 1984, imports for that year (32 million pounds) would have been limited to 50 percent of the 1979–83 average, or to 11.5 million pounds. The loss of revenue on imports of mixtures of casein would have totaled about $41,000 in 1984. Thus, the combined loss of revenue for the two products, whey protein concentrate and mixtures of casein, would have ranged from $91,000 to $116,000.

Technical comments

The legislation does not define the term "whey protein concentrates" or "lactalbumin"; nor does it acknowledge that these articles are provided for in TSUS items 118.35 and 118.40, respectively, effective November 14, 1984.[9] Nor does it take into account the possibility that some of the articles in TSUS item 118.45, also effective November 14, 1984, might have been included as casein or mixtures in chief value of casein prior to that date. Articles currently provided for in TSUS item 118.45 are not included in the legislation, and it is not clear if this omission is intended. Also, the term "mixtures containing not less than 5 per centum of any product referred to in paragraphs (1) through (4) [casein, casinates, lactalbumin, or whey protein concentrates]" might apply to articles classifiable in a number of items in the TSUS, some of which are already subject to quotas under section 22. Thus, it would appear that the Customs Service would experience considerable difficulty in administering quantitative restriction on such a broad spectrum of products where the applicable TSUS items are not enumerated.[10] In addition, the legislation is unclear as to whether the quota is to apply separately to each product, or instead to the aggregate group of such products.

Further, the legislation does not indicate the criteria that importers or users of the subject articles would be able to use in establishing to the Secretary of Agriculture whether they are eligible for preferences for import licenses. Finally, an effective date provision should probably be added.

GATT considerations

Similar legislation was extensively debated in the Senate from March 13 through March 24, 1981.[11] A principal issue during this debate was whether the Congress could, by statute, direct the President to proclaim a quota unless the President had previously complied with all of the procedural prerequisites for a section 22 proclamation.[12] It was argued that these amendments were inconsistent with the statutory requirements of section 22 and violated our obligations to GATT trading partners (to follow these procedures) undertaken by the United States when the GATT granted a waiver for section 22 fees and quotas in 1955.[13] Certain USDA legal opinions were cited for the proposition that the issue of casein imports "as to whether they displace domestic dairy products to a significant degree must be addressed by other than legislative means which would cause serious problems under the . . . GATT." The General Counsel to the Senate Committee on Agriculture, Nutrition, and Forestry was also quoted (by Senator Jepsen) as follows:

"After consultations with the General Counsel's Office, the U.S. Department of Agriculture and the Office of the U.S. Trade Representative, it is my conclusion that the proposed amendment would not be consistent with article XI of the GATT and would not be within the waiver for section 22 actions."

Supporters of the amendments argued, *inter alia*, that section 22 stands in a superior position to any trade agreement or other international agreement,[14] and that

---

[9] The Committee may wish to define whey protein concentrates in accordance with the Customs practice described earlier, as lactalbumin containing less than 75 percent protein by weight and classifiable in TSUS item 118.35; that containing more than 75 percent protein by weight and classifiable in TSUS item 118.40 might be defined as lactalbumin.

[10] The Committee may wish to remedy this ambiguity by (1) deleting "milk protein products includes [1] casein, [2] caseinates, [3] lactalbumin, [4] whey protein concentrates, and [5] mixtures containing not less than 5 per centum of any products . . ." and (2) by inserting the following new sentence on page 3, line 6, sec. 4.—For purposes of this Act, the term "milk protein products" shall include only casein, caseinates, lactalbumin, and whey protein concentrates, or mixtures in chief value, and containing not less than 5 per centum by weight, of such products.

[11] These amendments, offered by Senator Melcher, were designated Senate Unprinted Amendment No. 14, and Senate Amendment No. 8, to S. 509, 97th Cong., A bill to amend section 201 of the Agricultural Act of 1949, as amended, to delete the requirement that the support price of milk be adjusted semiannually.

[12] Imposition of fees and/or quotas by proclamation under section 22 normally occurs only after an investigation by the U.S. International Trade Commission as requested by the President upon the advice of the USDA. USDA advice is based on their belief that imported products materially interfere with, or render ineffective, the Department's price support program for domestic agricultural products.

[13] Specifically, the United States had sought and obtained a waiver of U.S. obligations, under Articles II and XI of the GATT, for fees and quotas imposed pursuant to section 22.

[14] The Commission majority, in the most recent casein investigation, noted (in another context) that ". . . section 22(f) makes it clear that no trade agreement or other international agreement shall be applied in a manner inconsistent with the requirements of section 22." Inv. No. 22-44, USITC Pub. No. 1217 at 8 (fn. 10), January 1982.

Congress has never explicitly (nor implicitly) ratified the GATT. They also noted previous instances of specific Congressional directives to the President on the use of section 22, citing the Trade Agreement Act of 1979 [15] and the Agricultural Act of 1956.[16]

The proposed amendments were ultimately rejected by the Senate. Again, when TSUS items 118.35–.45 were established for recently developed dairy products under the Trade and Tariff Act of 1984 (sec. 123 of the conference report), the articles included therein were not made subject to section 22 quotas.

It may be observed that because the President is not afforded any discretion as to the quota level, there is no need for the proclamation cited in section 2. The effective date for such restrictions could be specified in the legislation.

TABLE 1.—CASEIN: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
N. Zeal	65,883	58,308	73,204	56,062	78,735
Ireland	23,720	19,685	39,335	35,145	37,823
Austral	14,743	16,051	15,059	16,083	13,853
France	7,771	5,217	13,789	11,091	13,640
U. King	5,411	2,497	3,415	3,683	4,982
Poland	3,506	2,769	1,577	4,363	4,918
Norway	1,970	2,881	2,413	2,075	2,235
Fr. Germ	461	1,154	1,060	2,573	1,221
All other	5,273	3,532	4,099	2,464	2,768
Total	128,737	112,095	153,952	133,539	160,177
	Value (1,000 dollars)				
N. Zeal	67,386	74,485	95,774	67,453	79,214
Ireland	31,260	28,316	53,260	43,636	38,434
Austral	15,427	21,008	18,304	16,918	12,946
France	9,695	6,230	15,933	12,229	12,631
U. King	7,230	3,498	4,434	4,447	4,934
Poland	3,571	2,990	1,664	3,596	3,089
Norway	1,872	3,437	3,074	2,025	2,231
Fr. Germ	574	1,305	1,263	2,664	1,052
All other	5,914	4,932	4,589	2,712	2,371
Total	142,929	145,662	198,295	155,682	156,902
	Unit value (per pound)				
N. Zeal	$1.02	$1.28	$1.31	$1.20	$1.01
Ireland	1.32	1.44	1.35	1.24	1.02
Austral	1.05	1.31	1.22	1.05	0.93
France	1.25	1.19	1.16	1.10	0.93
U. King	1.34	1.40	1.30	1.21	0.99
Poland	1.02	1.08	1.06	0.82	0.63
Norway	0.95	1.19	1.27	0.98	1.00
Fr. Germ	1.24	1.13	1.19	1.04	0.86
All other	1.12	1.24	1.12	1.10	0.86
Average	1.11	1.30	1.29	1.17	0.98

Source: Compiled from official statistics of the U.S. Department of Commerce.

[15] The President was directed to expand the section 22 quotas applicable to certain cheeses in section 701(a) of the Act. A similar directive to the President, with respect to chocolate crumb quotas, was enacted in section 703 of the Act. In each instance the 1979 Act states that such proclamation "shall be considered a proclamation which is issued by the President pursuant to section 22 . . . and which meets the requirements of such section."

[16] Section 202(a) of this Act directed Presidential action under the authority of section 22 with respect to imports of extra long staple cotton to remove the exemption from the quota for cotton having a staple length of 1-11/16 inches or longer. The directive was implemented by Pres. Proc. 3145, July 6, 1956.

TABLE 2.—MIXTURES OF CASEIN: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
N. Zeal	10,208	7,107	11,989	12,318	15,967
Nethlds	2,449	1,729	4,572	6,038	7,820
Denmark	3,865	2,845	1,930	2,384	3,986
Ireland	256	193	827	787	1,380
Austral	3,027	2,269	1,407	2,723	1,473
U. King	164	81	799	404	558
All other	2,519	1,506	1,275	1,335	952
Total	22,489	15,729	22,800	25,989	32,135
	Value (1,000 dollars)				
N. Zeal	13,882	10,969	16,468	14,834	15,977
Nethlds	3,264	2,698	6,055	8,121	9,060
Denmark	5,253	4,257	2,587	2,826	4,481
Ireland	378	323	1,171	1,083	1,529
Austral	3,838	3,607	1,890	3,415	1,477
U. King	238	128	974	649	720
All other	2,505	2,003	1,563	1,580	1,052
Total	29,359	23,984	30,707	32,508	34,298
	Unit value (per pound)				
N. Zeal	$1.36	$1.54	$1.37	$1.20	$1.00
Nethlds	1.33	1.56	1.32	1.35	1.16
Denmark	1.36	1.50	1.34	1.19	1.12
Ireland	1.47	1.68	1.42	1.38	1.11
Austral	1.27	1.59	1.34	1.25	1.00
U. King	1.45	1.58	1.22	1.61	1.29
All other	0.99	1.33	1.23	1.18	1.11
Average	1.31	1.52	1.35	1.25	1.07

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 3.—ALBUMEN: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
N. Zeal	1,650	2,714	1,497	1,606	2,994
Nethlds	68	5	3	26	265
Denmark	1	17	201	88	87
Fr. Germ	13	14	155	4	69
Sweden	0	0	(1)	0	(1)
Mexico	6	6	0	0	5
All other	10	290	5	31	3
Total	1,749	3,044	1,861	1,756	3,423
	Value (1,000 dollars)				
N. Zeal	1,660	3,339	2,388	2,254	3,509
Nethlds	297	174	50	145	441
Denmark	3	33	402	164	171
Fr. Germ	26	22	222	7	87
Sweden			8		13
Mexico	232	132			10
All other	240	467	23	55	5

TABLE 3.—ALBUMEN: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84—Continued

Source	1980	1981	1982	1983	1984
Total	2,457	4,168	3,092	2,625	4,237
	Unit value (per pound)				
N. Zeal	$1.01	$1.23	$1.59	$1.40	$1.17
Nethlds	4.35	36.67	18.73	5.54	1.67
Denmark	2.16	1.97	2.00	1.86	1.96
Fr. Germ	2.07	1.65	1.43	1.67	1.27
Sweden			223.32		838.63
Mexico	36.45	23.90			2.00
All other	23.70	1.61	4.15	1.79	1.84
Average	1.40	1.37	1.66	1.50	1.24

[1] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 4.—CASEIN AND MIXTURES OF CASEIN: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Mexico	265	287	81	760	2,338
Canada	16	144	72	191	136
Spain	0	0	0	0	36
Fr. Germ	64	27	17	45	58
U. King	203	37	38	57	20
India	2	1	1	5	17
Rep. Saf	6	6	4	31	26
Austral	4	1	(1)	0	23
All other	403	386	383	189	185
Total	963	889	596	1,278	2,840
	Value (1,000 dollars)				
Mexico	691	665	309	1,015	2,581
Canada	54	228	117	261	190
Spain					128
Fr. Germ	176	90	67	173	114
U. King	678	83	144	228	90
India	7	6	8	33	74
Rep. Saf	33	45	32	80	69
Austral	21	6	2		47
All other	915	970	1,005	478	376
Total	2,574	2,093	1,684	2,268	3,669
	Unit value (per pound)				
Mexico	$2.61	$2.32	$3.82	$1.34	$1.10
Canada	3.30	1.59	1.62	1.37	1.39
Spain					3.52
Fr. Germ	2.73	3.29	4.06	3.87	1.95
U. Kind	3.35	2.26	3.79	3.96	4.40
India	3.77	5.58	5.70	6.26	4.41
Rep. Saf	5.89	7.65	8.81	2.60	2.61
Austral	4.63	4.30	4.57		2.07
All other	2.27	2.51	2.62	2.53	2.04

TABLE 4.—CASEIN AND MIXTURES OF CASEIN: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84—Continued

Market	1980	1981	1982	1983	1984
Average	2.67	2.36	2.83	1.77	1.29

[1] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 5.—CASEIN AND MIXTURES OF CASEIN: U.S. EXPORTS, IMPORTS FOR CONSUMPTION, INVENTORY CHANGE, AND APPARENT CONSUMPTION, 1980–84 [1]

Period	Exports	Imports	Inventory buildup or (decrease) [2]	Apparent consumption	Ratio (percent) of imports to consumption
	Quantity (1,000 pounds)				
1980	963	152,159	12,263	138,933	110
1981	889	127,823	(10,000)	136,934	93
1982	596	176,752	([3])	176,156	[4] 100
1983	1,278	159,528	([3])	158,250	[4] 101
1984	2,840	192,312	([3])	189,472	[4] 101
	Value (1,000 dollars)				
1980	2,574	173,320	13,968	156,778	111
1981	2,093	169,646	(13,060)	180,553	94
1982	1,684	229,002	([3])	227,354	[4] 101
1983	2,268	188,190	([3])	185,922	[4] 101
1984	3,669	191,200	([3])	187,531	[4] 102
	Unit value (per pound)				
1980	$2.67	$1.14			
1981	2.36	1.33			
1982	2.83	1.30			
1983	1.77	1.18			
1984	1.29	.99			

[1] There has been no U.S. production of casein since the late 1960's. Although there is U.S. production of mixtures of casein (e.g. caseinates), all is from imported casein.

[2] Estimated by the staff of the U.S. International Trade Commission.

[3] Not available.

[4] Does not include any estimate of inventory change.

Source: Compiled from official statistics of the U.S. Department of Commerce.

H.R. 1696

To make permanent the existing temporary duty-free treatment for certain wools finer than 46s

See statements of American Farm Bureau Federation, Paul A. Drazek; and California Farm Bureau Federation, Henry J. Voss, under H.R. 110.

U.S. International Trade Commission

Section-by-section analysis

The proposed legislation would provide permanent duty-free treatment for imports from countries afforded most-favored-nation, or column 1,[1] status of certain wools finer than 44s but not finer than 46s [2] entered, or withdrawn from warehouse for consumption, on or after July 1, 1985. Currently, such wools enter free of duty from all sources under the terms of Tariff Schedules of the United States (TSUS) Appendix item 905.11, a temporary provision scheduled to expire on June 30, 1985. The legislation would re-enact the column 2 rates of duty [3] now set forth in TSUS items 306.30 through 306.34.

Background and sponsor's justification

Description and uses.—Wool fibers may be obtained by one of two methods, shearing or pulling. Shorn wool, which currently accounts for virtually all U.S. wool production, is clipped from the backs of live sheep and lambs, whereas pulled wool is removed from the skin of slaughtered sheep and lambs.

The system most commonly used in the United States to grade wool is referred to as the count system, which classifies wool numerically according to fineness. Under the count system, mid to upper 60s, 70s, and 80s are fine; low 50s to low 60s are medium; and 30s to high 40s are coarse.

Wool fibers finer than 44s but not finer than 46s are coarse and generally range from 5 to 15 inches in length and from 40 to 70 microns (one-millionth of a meter) in diameter. Virtually all domestic consumption of such wool is imported. It is largely used to produce blankets and to a lesser extent fabrics for coats, carpets, and home furnishings.

Sponsor's justification.—Wools finer than 44s but not finer than 46s have been eligible for duty-free treatment under temporary tariff provisions since November 8, 1977. The original duty suspension legislation, H.R. 3946 (95th Congress), was cosponsored by Representatives Quie and Frenzel of Minnesota on behalf of Faribault Woolen Mill, which had been unable to obtain wools finer than 44s but not finer than 46s for its blanket production from domestic sources. Section 513 of the Trade Agreements Act of 1979, extended the temporary duty suspension for such wools until June 30, 1985. The proposed legislation would become effective on July 1, 1985 and would make the duty suspension permanent for the subject wools from MFN sources.

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] Wool of whatever blood or origin, not finer than 44s, as well as all named or similar wools not improved by the admixture of merino or English bloods, provided for in Tariff Schedules of the United States items 306.00 through 306.24, inclusive, are currently also afforded a duty suspension regardless of source until June 30, 1985. This suspension, under Appendix item 905.10, would not be affected by this legislation.

[3] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

Comparison with present law

Tariff treatment under the TSUS.—U.S. imports of wools finer than 44s but not finer than 46s have been granted a temporary duty suspension (along with other types of wools) from November 8, 1977 to the present; the suspension will expire on June 30, 1985. Absent Appendix item 905.11, U.S. imports of such wool after July 1, 1985 would be assessed the rates of duty negotiated in the Tokyo round of the Multilateral Trade Negotiations, as shown in table 1.

U.S. imports of wools finer than 44s but not finer than 46s are not subject to control under the Multifiber Arrangement (MFA),[4] nor are they eligible for duty free treatment under the Generalized System of Preferences (GSP).[5] Additionally, U.S. imports of such wool from least developed developing countries (LDDCs) are not eligible for preferential duty rates.[6]

TABLE 1.—WOOL FINER THAN 44S BUT NOT FINER THAN 46S: U.S. RATES OF DUTY, BY TSUS ITEMS

[Cents per clean pound] [1]

TSUS item No.	Description	Pre-MTN col. 1 rate of duty [2]	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
	Wool:										
	Other wool:										
	Finer than 44s:										
306.30	On the skin	[3] 12¢	[3] 9¢	[3] 6.5¢	[3] 4¢	[3] 4¢	[3] 4¢	[3] 4¢	4¢	4¢	[3] 32¢
	In the grease or washed:										
306.31	Not sorted	[3] 25.5¢	[3] 20¢	[3] 15¢	[3] 10¢	[3] 10¢	[3] 10¢	[3] 10¢	10¢	10¢	[3] 34¢
306.32	Sorted	[3] 26.25¢	[3] 20¢	[3] 15¢	[3] 10¢	[3] 10¢	[3] 10¢	[3] 10¢	10¢	10¢	[3] 35¢
306.33	Scoured	[3] 27.75¢	[3] 22¢	[3] 16.5¢	[3] 11¢	[3] 11¢	[3] 11¢	[3] 11¢	11¢	11¢	[3] 37¢
306.34	Carbonized	[3] 33¢	[3] 26¢	[3] 19¢	[3] 13¢	[3] 13¢	[3] 13¢	[3] 13¢	13¢	13¢	[3] 44¢

[1] Except TSUS item 306.34 which is per pound.
[2] Rate effective before Jan. 1, 1980.
[3] Duty on wool not finer than 46s temporarily suspended effective Nov. 8, 1977 until June 30, 1985.

However, U.S. imports of the subject wools are eligible for duty-free treatment under the Caribbean Basin Initiative (CBI).[7]

Tariff treatment under the proposed Harmonized System (HS).—Wools finer than 44s but not finer than 46s are classified in chapter 51 of the proposed HS.[8] Table 2

[4] Officially known as the Arrangement Regarding International Trade in Textiles and sanctioned under the General Agreement on Tariffs and Trade, the MFA provides the legal framework for the regulation of international trade in textiles and apparel through bilateral agreements.

[5] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic developing and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[6] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[7] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[8] The Harmonized System is intended to serve as the single modern product nonemclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings decribing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

Continued

on the following page shows the nomenclature for the subject wools and the proposed column 1-general rates of duty under the draft converted tariff schedule.

Structure of the domestic industry and domestic production

The level of domestic production of the subject wools is believed to be nil or negligible, and no information identifying firms operating in this sector of the wool industry is available.

TABLE 2.—WOOL FINER THAN 44s BUT NOT FINER THAN 46s: CLASSIFICATIONS AND RATES OF DUTY UNDER PROPOSED HARMONIZED SYSTEM

Heading No.	Article description	Col. 1 (general)	Col. 2
5101	Wool, not carded or combed:		
5101.11	Greasy, including fleece-washed wool:		
	Shorn wool:		
	Unimproved wool; other wool, not finer than 46s:		
	• • •		
	Other:		
	• • •		
5101.11.50	Other wool, finer than 44s	22.1¢/clean kg.[1]	77.2¢/clean kg.[1].
	• • •		
5101.19	Other:		
	Unimproved wool; other wool, not finer than 46s:		
	• • •		
	Other:		
	• • •		
5101.19.50	Other wool, finer than 44s	22.1¢/clean kg.[1]	77.2¢-clean kg.[1].
	• • •		
	Degreased, not carbonized:		
5101.21	Shorn wool:		
	Not processed in any manner beyond the degreased condition:		
	Unimproved wool; other wool, not finer than 46s		
	• • •		
5101.21.35	Other wool, finer than 44s	24.3¢/clean kg.[1]	81.6¢/clean kg.[1].
	• • •		
5101.29	Other:		
	Not processed in any manner beyond the degreased condition:		
	Unimproved wool; other wool, not finer than 46s		
	• • •		
	Other:		
	• • •		
5101.29.35	Other wool, finer than 44s	24.3¢/clean kg.[1]	81.6¢/clean kg.[1].
5101.30	Carbonized:		
	Not processed in any manner beyond the carbonized condition:		
	• • •		
5101.30.30	Other wool, finer than 44s but not finer than 46s.	28.7¢/kg.[1]	97¢/kg.[1].

[1] Duty temporarily suspended until June 30, 1985 as provided in Heading No. 9902.51.

U.S. imports

U.S. imports of wools finer than 44s but not finer than 46s, according to official statistics of the U.S. Department of Commerce, were as follows:

Table 2 provides the nomenclature and the U.S. rates of duty proposed to be effective on January 1, 1987, for wools finer than 44s but not finer than 46s if the United States adopts the proposed HS.

[Dollars in thousands]

Year	Quantity (thousands of clean pounds)	Value
1980	6,257	$10,820
1981	8,974	14,272
1982	8,144	11,537
1983	13,557	17,440
1984	16,747	22,684

During 1984, more than 80 percent of the total quantity and value of imports of the subject wools was shipped from New Zealand. Other major sources included the United Kingdom and Australia. Together these three sources, which were eligible for most-favored-nation tariff treatment, accounted for over 93 percent of the total quantity and value of such wool imports during 1984, as shown in the following tabulation:

[Dollars in thousands]

Source	Quantity (thousands of clean pounds)	Percent of total quantity	Value	Percent of total value
New Zealand	13,934	83.2	$18,328	80.8
United Kingdom	1,166	7.0	1,968	8.7
Australia	641	3.8	895	3.9
All other	1,006	6.0	1,493	6.6
Total	16,747		22,684	

During January–June 1984, the leading importers of wools finer than 44s but not finer than 46s and their locations were as provided below:

Prouvost Lefebvre & Co., Inc.
51 Sleeper Street
Boston, MA 02210

Texas International Mohair, Inc.
401 South Magnolia
Brady, TX 76825

Old Colony Textiles, Inc.
10 High Street, Room #830
Boston, MA 02110

Dennis Corporation
260 Summer Street
Boston, MA 02210

U.S. exports

U.S. exports of the subject wools are believed to be nil or negligible.

Apparent consumption

Annual apparent consumption of wools finer than 44s but not finer than 46s is approximately equivalent to the annual level of imports, previously provided.

Effect on Revenue

If the duties under TSUS items 306.30 through 306.34 had been assessed on the subject wools in 1984, customs revenues would have amounted to approximately $1.7 million.

Technical comments

In the title of the bill, the subject wools are incorrectly referred to as being "finer than 46s". In addition, both in the title and in the pertinent article descriptions, these wools should be described as "finer than 44s but not finer than 46s"; in the alternative, the legislation should be amended by inserting after "following" the

words "new items and superior headings, with the first superior heading at the third indentation level".

It should be noted that two items numbered "306.35" appear in the legislation. The second one should be numbered "306.36".

If the legislation is enacted after June 30, 1985, it would be necessary to include a provision permitting importers entering shipments after that date and before enactment to request a reliquidation of any entries on which duties had been paid, in order to afford them the benefit of the duty elimination.

AMERICAN TEXTILE MANUFACTURERS INSTITUTE, INC.,
Washington, DC, June 26, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. DOWLEY: This letter responds to the Subcommittee on Trade's announcement of May 16 requesting written comments for the record on miscellaneous tariff and trade bills, including H.R. 1696. This bill would make permanent the existing temporary duty-free treatment for certain wools.

The American Textile Manufacturers Institute (ATMI), which is the national trade association of the U.S. textile industry, fully supports and endorses H.R. 1696 introduced by Congressman Bill Frenzel on March 25, 1985. ATMI's membership accounts for about 85 percent of all wool, cotton and man-made fiber textile production in the United States.

The law to permit duty-free entry of wools not finer than 46s expires June 30, 1985. Production of these wools in the United States is practically non-existent, well under one-half of one percent of domestic production. The resilient and lofty characteristics inherent in these coarser wools are most desirable and necessary for certain types of fabrics. For many years, these wools have been granted duty-free status for such consumer items as carpets, blankets, hosiery, upholstery, industrial felts, coatings, knitting yarns and others.

We have discussed H.R. 1696 with representatives of the U.S. International Trade Commission and agree that certain technical changes to the legislation are necessary to accomplish its objectives. These revisions are attached. With these changes, H.R. 1696 simply converts the current tariff suspension on wools not finer than 46s from temporary to permanent. It does so by consolidating all relevant duty-free tariff lines under one heading (306.05) and itemizes those where tariffs do exist (306.15, 306.17, 306.25 and 306.27).

We also recommend that the preambular language to the bill be amended, to accurately reflect the intended purpose of H.R. 1696, by inserting the word "not" between the words "wools" and "finer."

The coarse wools described in this letter are essential to the manufacture of certain types of fabrics and are desirable in others. These wools are not commercially available in any significant quantity domestically. Therefore, it seems logical to allow these wools to continue entering the U.S. duty-free.

In light of the foregoing, H.R. 1696 has been endorsed by all segments of the American wool textile industry, including the Boston Wool Trade Association. We sincerely believe that enactment of this bill by Congress would be to the benefit of all concerned and to the injury of no segment of the American economy.

We appreciate this opportunity of presenting our views and will be happy to elaborate upon any point, if the subcommittee finds it useful and helpful.

Sincerely,

CARLOS MOORE,
Executive Vice President.

AMENDMENT TO H.R. 1696

Strike out all after the enacting clause and insert the following:

That (a) Subpart C of part 1 of schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by deleting items 306.00 through 306.34, inclusive, and inserting in lieu thereof the following:

	"Wool:		
306.05	Aleppo, Arabian, Bagdad, Black Spanish, Chinese, Cordova, Cyprus, Donskoi, East Indian, Ecuadorean, Egyptian, Georgian, Haslock, Iceland, Kerry, Manchurian, Mongolian, Oporto, Persian, Pyrenean, Sardinian, Scotch Blackface, Sistan, Smyrna, Sudan, Syrian, Thibetan, Turkestan, Valparaiso, and Welsh Mountain wool; similar wool not improved by the admixture of merino or English blood; and other wool of whatever blood or origin not finer than 46s; all the foregoing.	Free	Free.
	Other wool:		
306.15	On the skin	4¢ per clean lb.	32¢ per clean lb.
306.17	In the grease or washed	10¢ per clean lb.	35¢ per clean lb.
306.25	Scoured	11¢ per clean lb.	87¢ per clean lb.
306.27	Carbonized	13¢ per clean lb.	44¢ per clean lb."

(b) Headnote 3 of such subpart is amended (i) by replacing in paragraph (a) the term "40s" with "46s" at each instance and the term "44s" with "48s"; (ii) by deleting paragraph (b); and (iii) by redesignating paragraph (c) as (b).

(c) Headnotes 4 and 5 of such subpart are deleted.

(d) Headnotes 6 and 7 of such subpart are redesignated as 4 and 5, respectively.

(e) Items 905.10 and 905.11 of the Appendix to such Schudules are repealed.

SECTION 2: Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the 90th day after the date of enactment of this Act, the entry or withdrawal from warehouse for consumption of any article described in item 306.05, as added by section 1(a) of this Act, made on or after July 1, 1985, and before the effective date of this Act, shall be liquidated or reliquidated as though such item had applied to such entry or withdrawal.

SECTION 3: The amendments made by this Act shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of the Act.

STATEMENT OF DANIEL J. MURPHY, DIRECTOR, GOVERNMENT AFFAIRS, NATIONAL WOOL GROWERS ASSOCIATION

SUMMARY

The National Wool Growers Association is opposed to H.R. 1696, which would make permanent the existing temporary duty-free treatment for certain wools no finer than 46's.

The Association would, however, support the continued temporary suspension of the duties.

STATEMENT

Mr. Chairman and Members of the Committee: This statement is in response to your request for written testimony on H.R. 1696, a bill to permanently eliminate duties on imported wools no finer than 46's.

The National Wool Growers Association, which represents the nation's 125,000 sheepmen supports the concept of the continued suspension of duties on wool no finer than 46's, but we do oppose any efforts to permanently eliminate this duty classification.

The domestic sheep industry is experiencing rapid growth in the so-called "farm flock" states of the Midwest, East and Southeast. The wool from these areas is not usually as fine as the wools from the Western part of the United States. There may come a time when enough coarse wool is produced in the farm flock areas that a resumption of the duties on wools no finer than 46's may be prudent.

In addition, I can see no reason to "give away" these duty classifications to our competitors at a time when many of them are subsidizing the exportation of wool to the United States at an unacceptable degree.

Again, we support the concept of the continuation of the suspension of duties on the affected wools, but do not support permanent elimination.

H.R. 1701

To amend the Tariff Schedules of the United States to provide for rates of duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations

See statements of American Farm Bureau Federation, Paul A. Drazek; and California Farm Bureau Federation, Henry J. Voss, under H.R. 110.

U.S. International Trade Commission

Section-by-section analysis

The proposed legislation would amend the column 1 rate of duty [1] on U.S. imports of roses so that it would be consistent with (equivalent to) those assessed by the European Economic Community on imports of roses from the United States and other nations. The column 1 rate of duty would be raised from 8 percent to 24 percent ad valorem during the period November 1 of one year to May 31 of the following year and from 8 percent to 17 percent ad valorem during the period June 1 to October 31 in any year. The legislation would not affect the existing column 2 rate of duty,[2] which would apply throughout the year. To accomplish this change, current Tariff Schedules of the United States (TSUS) item 192.18, which covers fresh cut roses, would be deleted; two new items would be added to part 15G of schedule 1 and two other items redesignated.

Background and sponsor's justification

Description and uses.—Roses are members of the family *Rosaceae*; at least 100 species and thousands of varieties are known to exist. The two most commercially important types of these relatively expensive flowers are the sweethearts and the hybrid teas. Roses may be white, pink, red, yellow, orange, or intermediate shades or tints. Cut roses are used in wreaths and bouquets for ceremonial occasions and for general decorative purposes. As fresh cut flowers, roses may last 3 to 5 days in the home without the use of a preservative and 5 to 7 days with the use of a preservative.

Sponsor's justification.—According to the sponsor (quoted in the *Congressional Record* of March 25, 1985 at page H1435), the legislation is intended to align U.S. tariff rates on roses with those of the European Community. He cited serious problems of the domestic industry and attributed them to imports of lower-priced roses, encouraged by the low U.S. duty rate and by foreign subsidies. The legislation was introduced during the 98th Congress in substantially identical form.

Prior import investigations

In investigation No. 731-TA-148 (Final), the Commission determined that an industry in the United States was not materially injured or threatened with material injury, nor was the establishment of an industry in the United States materially retarded, by reason of imports from Colombia of fresh cut roses sold at less than fair value.[3] The Commission's preliminary investigation had resulted in findings of a reasonable indication of such injury or the threat thereof.

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Carribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[3] Determination in September 1984, USITC Pub. 1575.

In its investigation No. TA-201-42 concerning fresh cut roses, the Commission determined that roses were not being imported in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry.[4] While imports had increased, the information received in the investigation did not warrant the conclusion that the other statutory criteria had been met.

In investigation No. 701-TA-21 (Preliminary), the Commission determined that there was no reasonable indication that a U.S. industry was being materially injured or threatened with material injury or that its establishment was materially retarded by reason of imports of fresh cut roses from the Netherlands.[5] The existence or absence of subsidies was therefore not determiend by the Department of Commerce.

No report was issued in investigation No. 731-TA-43 (Preliminary), instituted on June 8, 1981, since the petition was dismissed by the Department of Commerce on the basis of inadequate information.[6]

The Department of Commerce has also conducted several investigations with respect to fresh cut roses and other fresh cut flowers. On January 18, 1983, Commerce entered into a suspension agreement with 93 Colombian producers and exporters of roses and other cut flowers whereby such producers and exporters renounced all benefits deemed countervailable by Commerce in a preliminary countervailing duty investigation initiated in August 1982. Commerce also published in the *Federal Register* of January 6, 1984 (49 F.R. 924), the final results of its administrative review with respect to fresh cut roses from Israel.[7]

On April 16, 1984, the Department of Commerce published in the *Federal Register* (49 F.R. 15007) the results of its final negative countervailing duty determination with respect to fresh cut flowers from Mexico.

Comparison with present law

Tariff treatment under the TSUS.—Imported roses are classified for tariff purposes under item 192.18 of the TSUS. The column 1 bound rate reflects a concession granted by the United States in the Tokyo round of trade negotiations under the General Agreement on Tariffs and Trade, effective January 1, 1980, and is not scheduled for further reductions. The United States had previously granted concessions on fresh cut flowers in 1939, 1948, and 1963. Fresh cut roses are eligible for duty-free entry under the Caribbean Basin Economic Recovery Act (CBERA).[8] Roses are not eligible for duty-free entry under the Generalized System of Preferences (GSP)[9], and no least developed developing countries (LDDC) duty rate is provided.[10]

---

[4] Report to the President of April 15, 1980, USITC Pub. 1059.

[5] Determination in February 1980, USITC Pub. 1041.

[6] 46 F.R. 33678, June 30, 1981, terminating investigation.

[7] Commerce's affirmative final determination was published in the *Federal Register* of Sept. 4, 1980 (45 F.R. 58516).

[8] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[9] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[10] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

TSUS item no.	Description	Rates of duty	
		Col. 1	Col. 2
	Cut flowers, fresh; bouquets, wreaths, sprays, or similar articles made from such flowers or other fresh plant parts:		
192.18	Roses	8 percent ad valorem	40 percent ad valorem.

All imported roses are subject to Federal quarantine inspection to prevent the spread of injurious plant pests (7 CFR 319.74). Inspections are reported to be made quickly and result in very few detentions. Imported roses also require a permit, but this permit is readily obtainable for roses shown to be free of injurious plant pests.

Tariff treatment under the proposed Harmonized System (HS).—Fresh cut roses are provided for in the HS, at a proposed column 1—general rate of duty of 8 percent ad valorem, as shown in the tabulation on the following page.

Heading	Article description	Rates of duty	
		Col. 1	Col. 2
	Cut flowers, and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared:		
0603.10.60	Roses	8 percent	40 percent.

Structure of the domestic industry

Most rose growers raise both the hybrid tea and sweetheart types of roses. It is estimated that there are fewer than 250 commercial rose growers in the United States. In 1984, according to official statistics of the U.S. Department of Agriculture, there were 221 growers of hybrid tea roses in the 14 major producing States, and 157 growers of sweetheart roses in the 13 major producing States.[11] It is estimated by the staff of the U.S. International Trade Commission that the major producing States accounted for at least 90 percent of U.S. rose production in 1984.

U.S. rose growers vary in size, in terms of the number of rose plants in production, from operations with as few as 2,000 rose plants to those with over a million plants. In the mid 1970's, less than a fourth of the total number of growers of hybrid tea and sweetheart roses accounted for more than three-fifths of the production of those rose types. The concentration of production by growers has tended to increase in recent years.

Many U.S. rose growers are diversified in their output, producing other types of cut flowers, potted flowering plants, or other floricultural products as well as roses. The importance of cut rose production to their overall operations varies significantly by firm. A U.S. rose-growing operation of average size would have about 88,000 rose plants in production, requiring about 135,000 square feet of greenhouse space. The grower would sell about 2.1 million rose blooms from these plants and would have total rose sales of about $550,000 annually.

The production of roses is a long-term investment. A typical rose plant will be in production for 4 to 6 years and will produce between 80 and 150 blooms during that time, depending on the variety.

Domestic production

During 1980–84, U.S. production of roses decreased from 474 million blooms, valued at $117 million, in 1980 to 464 million blooms, valued at $123 million, in 1982; it then rose to 509 million blooms, valued at $144 million, in 1984 (table 1). The significant increase in domestic production in 1983 and 1984 is believed to have occurred when producers of other floriculture crops shifted to fresh cut rose production because of the poor economic return from these other crops (as compared with fresh cut roses) in 1982.

Official data on domestic production by month are not available. However, data gathered during the Commission's investigation on fresh cut roses in 1980 (inv. No.

[11] The major producing States are California, Colorado, Connecticut, Illinois, Indiana, Massachusetts, Michigan, Minnesota, New Jersey, New York, Ohio, Oregon, Pennsylvania, and Washington for hybrid tea and (except Oregon) for sweetheart roses.

TA-201-42, *supra*) indicate that in 1979 the bulk of U.S. production of hybrid tea roses was scheduled during January-June and October-December, when demand is high. Although growing conditions are ideal in July-September, it usually is not a period of high production. The demand for fresh cut roses in those months is lower due to the availability of roses from home gardens, the smaller number of holidays, and the pursuit by many people of outdoor activities during the summer months. The bulk of U.S. production of sweetheart roses is scheduled during April-September of each year. In 1979, this period accounted for nearly 60 percent of U.S. production. The demand for sweetheart roses is very high during this period owing to their popularity for use in weddings.

U.S. imports

During 1980-84, U.S. imports of roses increased substantially each year, rising from 45 million blooms in 1980 to 159 million blooms in 1984 (table 2). Imports of roses increased by over 25 percent from 1983 to 1984.

Colombia, the Netherlands, Mexico, Guatemala, and Israel were the leading suppliers of U.S. imports of fresh cut roses in 1984. These countries accounted together for 94 percent of the total imports, in terms of quantity, in that year. Imports from Colombia climbed from 36 million blooms in 1980 to 122 million blooms in 1984. Imports from the Netherlands in 1984 were 9,341,000 blooms, up from 1,572,000 blooms in 1980. There were no imports of roses dutiable at the column 2 rate of duty during 1980-84.

Imports of roses during the period June 1 to October 31, 1984 totaled 60.6 million blooms and were equivalent to 38 percent of the total U.S. imports during 1984, with Colombia supplying 74 percent of the total during that period. Data gathered in the Commission's investigation No. TA-201-42 indicate that U.S. imports of roses are heaviest during January-June and October-December and tend to be concentrated in the months of February, May, and December, followed by the months of April and November. All of these months contain major U.S. holidays which create a strong demand for fresh cut roses.

The Netherlands is the world's leading producer of fresh cut roses, and reportedly the Dutch government contributes financially to the growth of the industry.[12] The industry is reported to be planning a substantial increase in its penetration of the U.S. market. A dispute as to that government's policies continues within the European Economic Commission and the European Parliament. The United Kingdom continues to support its greenhouse industry in the face of competition from growers in the Netherlands.

The Common External Tariff of the EEC sets forth the following tariff treatment:[13]

Heading No. and description	Rate of duty (percent)	
	Autonomous	Conventional [1]
06.03 Cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared:		
A. Fresh:		
I. From 1 June to 31 October	24	24
II. From 1 November to 31 May	20	17
B. Other	20	

[1] Conventional duty rates (set in trade agreements or conventions) apply to countries afforded MFN status, generally under the General Agreement on Tariffs and Trade (GATT).

The conventional rates of duty apply to imported articles from GATT members or countries with which the EEC has concluded MFN agreements. These rates represent concessions granted in trade agreements (conventions). Autonomous rates of duty are imposed where no conventional rates are shown or where the conventional rate is higher than the autonomous rate. The EEC in 1979 granted a concession only as to "off-season" imports, amounting to 3 percent (the reduction to the 17 percent conventional rate of 0.03.A.II.), while the other rates were bound at prior statutory levels. No other fresh flower concessions have been granted since the EEC was formed in 1957.

[12] Congressional Record, Apr. 29, 1982, S. 4360.
[13] *Id.*, at 4362.

U.S. exports

U.S. exports of roses are estimated by the Commission's staff to have been about 10 million blooms annually during 1980–84. Canada is believed to be the principal U.S. market. Exports to the EEC are believed to be negligible or nil.

Apparent U.S. consumption

Apparent U.S. consumption of roses increased steadily from 509 million blooms in 1980 to 658 million blooms in 1984. The share of consumption supplied by imports increased from 9 percent in 1980 to 24 percent in 1984. Data are not seprately available for apparent U.S. consumption for the November-May and June-October time periods involved in this legislation.

Effect on revenue

If enacted, the legislation would substantially increase the column 1 rate of duty on fresh cut roses. Based on imports in 1984, the total potential gain in customs revenues from these rate increases may amount to about $5 million. However, the higher duty rate may reduce the volume of imports and thus would reduce the gain in revenues.

Technical comments

It should be noted that the proposed rates of duty on fresh cut roses would be higher than those for other fresh cut flowers and for bouquets, wreaths, sprays, or similar articles made from such flowers or other fresh plant parts (TSUS item 192.21). Foreign suppliers could readily add one stem of another flower type, such as a carnation, to a bunch of roses and import the mixture as a bouquet at the rate of 8 percent ad valorem (column 1) or duty-free if it were from an eligible GSP country at a substantial savings from the proposed rates of duty on roses. Thus, the possibility of circumvention of the increased duty is high.

GATT comments

It should be noted that the present level of the rate of duty on roses reflects concessions granted under the General Agreement on Tariffs and Trade. Canada has been granted initial negotiating rights (INR's) with a duty rate of 12.5 percent ad valorem; the original six members of the EEC have INR's at 10 percent ad valorem. More significantly, the Netherlands, Colombia, and Israel as GATT members could make complaints under the dispute settlement mechanism of the GATT. Under the provisions of the GATT, when a country increases the duty above the agreed (bound) level, it is to give compensatory concessions to the affected contracting parties or may be subject to the retaliatory withdrawal by them of corresponding reciprocal benefits to the United States from their concessions under the GATT.

TABLE 1.—FRESH CUT ROSES: U.S. PRODUCTION, EXPORTS OF DOMESTIC MERCHANDISE, IMPORTS FOR CONSUMPTION, AND APPARENT CONSUMPTION, 1980–84

[Quantity in millions of blooms; value in millions of dollars; unit value in cents per bloom]

Year	Production	Exports [1]	Imports [2]	Apparent consumption	Ratio (percent) of imports to consumption
			Quantity		
1980	474	10	[3] 45	509	9
1981	467	10	68	525	13
1982	[4] 464	10	94	548	17
1983	[4] 500	10	126	616	20
1984	509	10	159	658	24
			Value		
1980	117	([5])	[5] 13	([6])	([6])
1981	124	([5])	13	([6])	([6])
1982	[4] 123	([5])	19	([6])	([6])
1983	[4] 144	([5])	31	([6])	([6])
1984	144	([5])	38	([6])	([6])

TABLE 1.—FRESH CUT ROSES: U.S. PRODUCTION, EXPORTS OF DOMESTIC MERCHANDISE, IMPORTS FOR CONSUMPTION, AND APPARENT CONSUMPTION, 1980–84—Continued

[Quantity in millions of blooms; value in millions of dollars; unit value in cents per bloom]

Year	Production	Exports [1]	Imports [2]	Apparent consumption	Ratio (percent) of imports to consumption
			Unit value		
1980	25	[5]	([5])	([6])	([6])
1981	27	[5]	19	([6])	([6])
1982	[4] 27	[5]	20	([6])	([6])
1983	[4] 29	[5]	24	([6])	([6])
1984	28	[5]	24	([6])	([6])

[1] Estimated by the staff of the U.S. International Trade Commission from data submitted in Inv. No. TA-201-42.
[2] Includes some imported roses that are reexported.
[3] Compiled from U.S. Department of Agriculture plant quarantine entry data.
[4] Compiled from questionnaire response in U.S. International Trade Commission investigation No. 731-TA-148.
[5] Not available.
[6] Not meaningful.

Source: Production, based on data from Floricultural Crops published by the U.S. Department of Agriculture, with adjustments to include all 50 States, except as noted. Imports compiled from official statistics of the U.S. Department of Commerce, except as noted.

TABLE 2.—FRESH CUT ROSES: U.S. IMPORTS, BY PRINCIPAL SOURCES, 1980–84

Country	1980 [1]	1981	1982	1983	1984
			Quantity (1,000 blooms)		
Colombia	35,532	52,931	75,435	98,706	121,522
Netherlands	1,572	3,230	5,157	7,162	9,341
Mexico	([2])	373	1,008	4,909	7,113
Guatemala	([2])	1,689	2,579	4,411	6,251
Israel	4,755	6,172	5,280	4,329	5,512
All other	2,679	3,131	4,682	6,578	9,061
Total	44,538	67,526	94,141	126,095	158,800
			Value (1,000 dollars)		
Colombia	([3])	11,078	16,049	26,000	30,576
Netherlands	([3])	833	1,158	1,719	2,318
Mexico	([3])	51	128	941	1,525
Guatemala	([3])	326	392	609	920
Israel	([3])	320	295	441	802
All other	([3])	492	818	1,016	1,669
Total	([3])	13,100	18,840	30,726	37,810
			Unit Value (per bloom)		
Colombia	([3])	$0.21	$0.21	$0.26	$0.25
Netherlands	([3])	.26	.22	.24	.25
Mexico	([3])	.14	.13	.19	.21
Guatemala	([3])	.19	.15	.14	.15
Israel	([3])	.05	.06	.10	.15
All other	([2])	.16	.17	.15	.18
Average	([3])	.19	.20	.24	.24

[1] Compiled from U.S. Department of Agriculture plant quarantine entry data.
[2] Included in all other.
[3] Not available.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

DEPARTMENT OF AGRICULTURE,
Washington, DC, July 9, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the Department of Agriculture's views on H.R. 1701, a bill "To amend the Tariff Schedules of the United States to provide for rates of duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations."

The Department of Agriculture opposes enactment of this legislation.

H.R. 1701 would increase the import duty on roses from the present rate of 8 percent to 17 percent, if entered between June 1 and October 31, and to 24 percent, if entered between November 1 and May 31.

H.R. 1701 would, by increasing the duty on roses, impair a tariff concession which the United States made in the Tokyo Round of Multilateral Trade Negotiations. Countries exporting roses to the United States would probably seek trade compensation to affect this impairment, however, no authority exists now to provide such compensation. In the absence of compensation, other countries could withdraw trade concessions they have made to the United States. Such retaliatory action would likely be directed toward agricultural products.

The Office of Management and Budget advises that it has no objection to the presentation of this report from the standpoinit of the President's program.

Sincerely,

JOHN R. BLOCK, *Secretary.*

STATEMENT OF DWIGHT HAIGHT, PRESIDENT, ASSOCIATION OF FLORAL IMPORTERS OF FLORIDA

The Association of Floral Importers of Florida (the Association) is a non-profit trade association representing 35 U.S. importers of fresh-cut flowers located throughout the state of Florida and who directly employ 700 people with related industries employing thousands more. The Association speaks on behalf of its membership on international trade promotion and other pertinent industry issues.

The association strongly opposes enactment of H.R. 1701, a bill which proposes to dramatically increase the present U.S. duty on imports of roses from the present 8% to 24%—3 times the current duty. The rationale for this dramatic tariff rate increase proposal is that the United States should charge the same duty on roses as is levied by the European Economic Community (EEC).

Why is the Congress being asked to offset the EEC duty? Are the Europeans flooding the U.S. market with roses?

No! According to the latest available figures, 9.2 million stems were exported to this country in 1984 by the EEC. But our domestic rose growers themselves sold more than 510 million blooms. So, the proposed legislation would charge all rose importers the same duty as is levied by the Europeans, despite the fact that European origin roses constitute less than 2% of the domestic shipments by U.S. growers and, less than 6% of imports. Domestic rose growers themselves, in fact, exported 10 million blooms in 1983, substantially more than the Europeans exported here.

Why retaliate against the EEC, when they have such a small percentage of the U.S. rose market? Is it simply an effort to harm other importing countries by using the relatively high EEC tariff figure in their bill?

It is claimed that our nation's rose growers can only be saved from the devastation suffered by other domestic flower producers by limiting their competition. We suggest, on the contrary, that such "protection" only hurts consumers without significantly benefitting domestic growers. With proper promotion, the market for roses in the United States could experience substantial growth. In fact, we contend that the U.S. market for fresh cut flowers, and roses in particular, has yet to achieve its potential. For example, other Western nations consume many more fresh-cut flowers than are consumed in the United States. In the United States, per capita consumption is only approximately 3 roses per year. Why? Because the American public has not been adequately encouraged to enjoy and give flowers. To expand consumption requires industry advertising to enlarge the market. There is every reason to believe this expansion should benefit the domestic industry as well.

Unfortunately, the domestic rose industry is preoccupied with its efforts to isolate the domestic market from import competition. This mindset apparently has caused the domestic rose industry to forego mutual promotion and advertising efforts with

importers despite the fact that the domestic industry and importers traditionally have mutually benefitted from consumption increases.

The Association of Floral Importers of Florida strongly opposes the consideration or enactment of H.R. 1701, the Rose Tariff Equity Act of 1985. We believe the aim should be to increase U.S. consumption of all cut flowers through generic promotion and advertising efforts. Cooperative efforts of U.S. and foreign producers of fresh-cut roses can dramatically raise the consumption level of roses to the benefit of all flower growers.

Further, H.R. 1701 is completely contrary to our concept of free trade and will serve only to heighten current international trading tensions. Only through fair and effective competition will the U.S. consumer be best served. Erecting artificial tariff barriers runs counter to the U.S. commitment to free trade and ultimately forces the U.S. consumer to pay higher prices.

STATEMENT OF JIMMY WILLIAMS, FLORISTS' TRANSWORLD DELIVERY ASSOCIATION

Mr. Chairman and Members of the Committee: I am Jimmy Williams, owner and operator of Larson-Williams Florist, Tampa, Florida. I speak in behalf of Florists' Transworld Delivery Association, a member-owned cooperative of nearly 20,000 retail florists in the U.S., all of them independent small businessmen who rely on both domestic growers and foreign sources of supply to make available to consumers an adequate supply of quality roses at reasonable prices.

1985 is an especially significant year for "flowers-by-wire," the intercity and international system for delivery of florist goods and services to consumers, who are the ultimate arbiter of flower usage in our economy. We try never to forget that it is the consumer who is the final and most important link in the chain of distribution from producer to user.

For 1985 is the 75th Anniversary of the founding of FTD in Rochester, New York in 1910 by a group of 15 far-sighted retail florists. Our 75th Anniversary member meeting will be held in Detroit, Michigan August 19–22, 1985. There we will celebrate the unique institution in American and worldwide retailing known as "flowers-by-wire" and its warm and caring contribution to living in America. May I urge members of this committee to give their support to a resolution by your colleague, Rep. Frank Horton of New York, (H.J. Res. 271), calling upon Congress and the President to declare August 19, 1985 as National Flowers-by-Wire Day.

The oldest and largest of the florist wire services, FTD was founded as a means of providing clearinhouse, marketing, research, educational, and communications services to its owner-members. In this statement, I will deal with the portion of ornamental crop production and distribution that is identified as commercial floriculture, specifically cut roses imported into the U.S. from several countries.

First let me outline the basic factual situation with regard to this issue. For a number of years, Roses, Inc., a trade association of domestic rose growers, has sought import restrictions in a variety of forums. These avenues have included a Section 201 "escape clause" proceeding in 1979–80, as provided for in the Trade Act of 1974, countervailing duty petitions and an antidumping petition. Countervailing duties, which I understand are based on the theory of unfair trade subsidies by a foreign country, have been assessed against Israel and were assessed, and later suspended against Colombia. A pending antidumping case, originally dismissed by the International Trade Administration, is working its way through the appellate procedure with no final decision to date.

Since countervailing duties and antidumping procedures represent specialized kinds of import relief based upon determinations of fact in highly specific situations, it is most instructive for us to look at the escape clause case before the International Trade Commission in 1979–80. Where it is necessary to prove that imports of a product that is "like or directly competitive" to the domestically produced product is a "a substantial cause of serious injury . . . or a threat thereof," the ITC ruled unanimously that there was no such injury or threat of injury.

As a result, the domestic industry apparently chose as a sort of shortcut an appeal directly to Congress to legislate a dramatic increase in the tariff, or duty, on imports of cut roses. Last year, this committee heard testimony on H.R. 1146, a bill identical to H.R. 1701, which we opposed, saying that it would work "a substantial hardship in terms of price and availability on retailers and consumers of roses."

FTD continues to oppose this legislation and other efforts to restrict imports where such restrictions are primarily intended to limit supplies and to increase prices of a flower that is utterly essential to our retail business—and for all intents and purposes, quite "essential" in the consumer's thinking about flowers.

It is of fundamental importance, not only to this committee but to the florist industry and to major investors in our industry that the reasons for our opposition be perfectly clear to all. All the economic indicators points to unprecedented growth in our industry during the next decade. The realistic situation we face is that supply will not equal demand. Even more fundamental is that restricted supply may very well discourage the investors this industry must attract if it is to meet the kind of consumer demand that we, as marketers, know is out there. True, roses are only one kind of cut flower involved, but rose growers can expect to enjoy their full share of this expansion in consumer demand if they do not price their product out of the market.

High rose tariffs would restrict supply, up prices

In 1977, FTD's board of directors adopted a policy calling for the availability in the marketplace of a quality product, in adequate quantities, at reasonable prices to retailers and consumers. This position has been affirmed on six occasions by different FTD boards of directors. It recognizes that the lifeline of the retail florist, his very ability to be a florist, lies in the availability of flowers.

This availability is a key factor in another respect. FTD florists in California, where domestic supply is more than adequate, must be sure the product is available in New York, Boston or Washington, D.C. when they transmit customers' orders. FTD rules require that its members stock and display adequate supplies of five basic flowers, including roses, because they must meet varying demands of consumers and they must live up to a nationally advertised money-back guarantee.

And this can be tough at Valentines Day when, typically, domestic production and imports, taken together cannot meet the demand for this red flower that is so firmly lodged in the psyche of consumers everywhere. The prices of roses now at such peak demand periods illustrate the accuracy of our observation that it is the consumer who would pay for import restrictions, and that imports of roses, far from harming the domestic industry, actually help it by serving a market sector in which they fill a gap between domestic availability and demand.

The effect of an increased tariff on cut rose imports raises a number of significant points. In general, it is recognized by such authorities as the International Economic Affairs Department of the National Association of Manufacturers that a tariff rate (speaking of Japan) "is a significant barrier not only because it is high but because it has the effect of increasing the price by considerably more than the nominal ad valorem rate would suggest." (NAM International Economic Report, February/March 1983).

The impact of H.R. 1701 on consumer prices in the U.S. would be all the heavier because of the way in which the two-tier system is structured in this bill. In brief, the bill calls for increasing the present eight percent duty to 17 percent and 24 percent (a maximum of 300 percent!), modeling its approach on the European Economic Community (Common Market) even though no U.S. roses are exported to Europe. However, this somewhat fanciful approach to making domestic roses the first beneficiary of so-called "trade reciprocity" has a rather unusual angle, as was pointed out by the U.S. Department of Agriculture in opposing this bill last year.

Conclusion

Let me return once more to a theme that is central to the successful marketing of roses and other cut flowers. It is the conviction of industry leaders and marketing experts that we are on the verge of a tremendous boom in public demand for, and consumption of, cut flowers. It is true to some extent, as remarked by Forbes (October 5, 1982) that "until recently the domestic flower industry was almost catatonic from years of doing business the same old way." It is this aspect of the industry marketing pattern that is changing. In the same Forbes article, a leading New Jersey wholesaler remarked that "this is a sleeping giant of an industry. If Americans doubled their consumption, there wouldn't be enough flowers in the world to meet the demand." And the editor of one industry trade magazine, *Florists' Review,* remarked in an editorial on March 17, 1983, "I believe it's time the U.S. industry accepts the truth that flowers are a global enterprise. Once that fact is accepted, U.S. growers will gain the insight they need to fight aggressively for their share of the enormous U.S. market."

I could go on at length in this vein, but I believe FTD's views in this matter are clear. We believe in the future of our product. We believe in our ability to market it and to provide maximum pleasure and satisfaction to all consumers. We believe that our future is bounded only by our ability to imagine it and create it.

And we oppose H.R. 1701 as an artificial and damaging restriction on our ability to make our small part of the American dream a reality.

Thank you for your time and attention. It is appreciated by our 20,000 members, who are independent small business men located in almost every major city and town and hamlet in this nation. With your permission, I wish to include as exhibits several recent newspaper and magazine articles, and request that they be made part of the record. They are listed below for ready reference.

I will be more than pleased to try to answer any questions you may have.

STATEMENT OF JAMES C. KRONE, EXECUTIVE VICE PRESIDENT, AND EUGENE L. STEWART, COUNSEL, ROSES, INC.

INTRODUCTION

This written statement is submitted on behalf of Roses, Incorporated, an association of U.S. rose growers, in support of H.R. 1701 to amend the Tariff Schedules of the United States to provide for rates of duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations.

The European Economic Community ("EC") has for many years maintained a dual rate tariff system applicable to imported, fresh cut roses, which has resulted in dramatic declines of imports during their growing season. The EC tariff system also causes significant diversion of imports from the EC towards the United States. The purpose of the dual-rate tariff system is to protect the EC rose growers from situations of over-supply and from ruinous price competition brought on by surges in imports during the peak growing season in Europe. The perishable nature of the product, the inelasticity of demand for roses, and the high sensitivity of rose prices to excess supply weigh heavily in evaluating the policies of the EC and the need for a similar approach by the United States.

The efforts of the U.S. rose growers to obtain relief from the surge in imports through administrative remedies have been ineffectual. As a result the domestic rose growing industry now addresses this Congress directly, asking the subcommittee to support H.R. 1701.

1. Roses, Inc. thanks the Subcommittee for this opportunity to express its support for H.R. 1701, a bill to amend the U.S. Tariff Schedules to provide for rates of duty on imported roses similar in structure to the rates maintained by the European Economic Community.

2. The EC has a dual rate tariff structure. It maintains a 24% duty rate from June through October which is the principal growing season. From November through May, when their greenhouses have sharply reduced production, a rate of 17% is levied. Duties on fresh cut roses imported into the United States are 8% of the FOB origin value—one-third the EC rate during June–October and less than one-half of the November–May rate. In addition, the European duty rates are applied to the CIF value of the imports; U.S. import duties, on the other hand, are generally determined on the basis of the FAS value of the imported fresh cut roses. Thus, while the EC levies duties on both the price of the product and the transportation expenses, the U.S. levies duties on the price of the product only.

3. The EC maintained its high summer tariff rates through the past round of trade agreement negotiations. In 1979 the winter rate was reduced slightly, from 20% to the present 17%. By comparison, the United States reduced its rate from 40% to 8% *ad valorem*.

4. The European dual-rate system is very effective in reducing imports during the growing season and protects EC growers from conditions of oversupply and depressed prices. As shown by Table 1, following, imports of roses during the high tariff summer period are dramatically lower than imports during the November–May period.

TABLE 1.—SEASONAL IMPORTS OF FRESH CUT ROSES INTO THE EUROPEAN COMMUNITIES

[Thousands of blooms]

	1980	1981	1982	1983	1984
Imports from:					
June–October	12,861	13,634	11,757	10,935	14,596
November–May	154,669	189,511	126,968	107,602	98,756
Total	167,530	203,145	138,725	118,537	113,352

TABLE 1.—SEASONAL IMPORTS OF FRESH CUT ROSES INTO THE EUROPEAN COMMUNITIES—Continued

[Thousands of blooms]

	1980	1981	1982	1983	1984
June–October as percent of total	7.7	6.7	8.5	9.2	12.9
November–May as percent of total	92.3	93.3	91.5	90.8	87.1

Source: NIMEXE (Nos. 06.0301 and 06.0351).

5. Table 2, following, sets forth U.S. and EC imports from selected countries, by country of origin, for 1982 through 1984. Columbia, Israel, Mexico, and the other listed countries are among the largest sources for U.S. importers. As shown by Table 2, one effect of the relatively higher tariff rate applied by the EC has been a decline in the volume of EC imports from these countries at the same time that U.S. imports from these sources are increasing.

TABLE 2.—IMPORTS OF ROSES INTO THE EUROPEAN COMMUNITIES AND UNITED STATES FROM SELECTED SOURCES, 1982–84

[In millions of blooms]

	1982		1983		1984	
	European communities	United States	European communities	United States	European communities	United States
Colombia	2.1	75.4	2.5	98.7	1.5	121.5
Israel	97.8	5.3	69.5	4.3	62.7	5.5
Mexico	0	1.0	.02	4.9	0	7.1
Guatemala	0	2.6	0	4.4	0	6.3
Costa Rica	0	0	0	.3	0	.8
Dominion Republic	0	2.6	0	2.5	0	2.9
Subtotal	99.9	86.9	72.0	115.1	64.2	144.1
European communities	*598.2	5.2	*626.9	7.3	*690.7	9.4
United States	.03	.....	.02	.....	.002	.....

*Imports from European communities to European communities are intra-European communities shipments given by NIMEXE (Comext-Eurostat).

Source: U.S. imports from Department of Commerce, Bureau of the Census, import statistics. EC imports from NIMEXE (Nos. 06.0301 and 06.0351).

6. Imports to the EC from Israel and Columbia have declined at the same time that imports to the United States have increased. EC, imports from Mexico, which amounted to roughly 20,000 blooms in 1983, decreased to zero in 1984; U.S. imports from Mexico increased from 4.9 million blooms in 1983 to 7.1 million blooms in 1984. EC imports from six of the subject countries combined decreased steadily from 99.9 million blooms in 1982 to 72 million blooms in 1983, to 64.2 million blooms in 1984. At the same time, intra-EC shipments increased while U.S. exports to the EC decreased.

7. In sharp contrast to the decreasing market penetration by imports of fresh cut roses into the EC, *imports into the United States increased in each year.*

8. The shift in international trade flows away from the world's largest and most developed market, the EC, toward the United States, is a product, in part, of the dual-tariff rate schedule in the EC and the relatively higher tariffs imposed. The results of EC tariff protection are obvious: the EC rose producers are strengthened by the artificial support of sales volume and prices in their domestic market and the world's other rose producers are restricted in gaining access to the free world's largest market [1] causing diversion of their roses to the United States.

[1] Estimates place the EC market at a volume of over 1 billion blooms annually. Intra-E.C. shipments alone in 1984 amounted to over 690 million blooms. By comparison, U.S. apparent domestic consumption in 1984 stood at roughly 550 million blooms. *See* Table 2 *supra*, Table 5 *infra*. Given that intra-EC shipments do not include domestic consumption in each of the member states, it is apparent that the EC market is much larger than the United States market.

9. Table 3, following, sets forth U.S. imports by country of origin for major rose exporting nations. As shown, imports from the source identified accounted for over 95 percent of all U.S. rose imports.

TABLE 3.—U.S. IMPORTS FOR CONSUMPTION—FRESH CUT ROSES

[In millions of blooms and millions of dollars]

	1979	1980	1981	1982	1983	1984	1st qtr. 1985
Colombia:							
Quantity	27.1	29.9	52.2	75.4	98.7	121.5	35.3
Value	$6.0	$6.9	$12.7	$18.9	$20.1	$36.0	$15.2
European communities:							
Quantity	1.4	1.1	3.2	5.2	7.3	9.4	1.2
Value	na	$.4	$.8	$1.2	$2.2	$3.0	$.6
Netherlands:							
Quantity	1.4	1.1	3.2	5.2	7.2	9.3	1.1
Value	na	$.4	$.8	$1.2	$2.2	$3.0	$.6
Israel:							
Quantity	5.6	5.0	6.2	5.3	4.3	5.5	2.9
Value	na	$.4	$.3	$.3	$.7	$1.3	$.8
Mexico:							
Quantity				1.0	4.9	7.1	1.5
Value	na			$.1	$1.1	$1.7	$.7
Guatemala:							
Quantity		.5	1.7	2.6	4.4	6.3	.9
Value	na	$.1	$.4	$.5	$.8	$1.1	$.1
Costa Rica:							
Quantity					.3	.8	.4
Value	na				$.1	$.1	
Dominion Republic:							
Quantity		.8	1.7	2.6	2.5	2.9	.5
Value		$.1	$.2	$.3	$.3	$.4	$.1
Subtotal:							
Quantity	34.1	37.3	65.0	92.1	122.4	153.5	42.7
Value	na	$7.9	$14.4	$21.3	$25.2	$43.6	$17.6
All countries:							
Quantity	35.3	38.5	67.5	94.1	126.1	158.8	43.8
Value	$7.5	$8.6	$15.5	$22.5	$36.1	$45.2	$18.0

Source: 1979–1982, USITC Pub. No. 1059, Table 2; USITC Pub. No. 841, Table 4; USITC Pub. No. 1450, Table 9; USITC Pub. No. 1059, Table 4; 1983–85, U.S. Dept. of Commerce, IM 145 tapes.

10. As shown by Table 4, below, although U.S. imports have increased, even without a dual-rate, U.S. imports are more heavy during the winter months than during the summer months. This is due to the different purchasing patterns in the United States: consumers tend to buy more fresh cut roses during holidays such as Valentine's Day, Mother's Day, Easter, and so forth. In the EC, contrariwise consumption is relatively stable throughout the year.

TABLE 4.—U.S. IMPORTS OF FRESH CUT ROSES—NOVEMBER–MAY AND JUNE–OCTOBER

[In millions of blooms]

	1980	1981	1982	1983	1984
Imports from all sources:					
June–October	11.5	21.1	31.7	48.2	60.6
November–May	27.0	46.4	62.4	77.9	98.2
Total	38.5	67.5	94.1	126.1	158.8
June–October as percent of total	29.9	31.3	33.7	38.2	38.2
November–May as percent of total	70.1	68.7	66.3	61.8	61.8

Source: U.S. Department of Commerce, Bureau of the Census.

11. Roses, Incorporated supports a dual-rate tariff patterned after the EC tariff. The U.S. rate, however, should be structured to protect U.S. growers during the *winter* rather than the summer as in the EC. Unlike the EC market, which is a sophisticated market characterized by relatively stable demand, the U.S. market is characterized by dramatic demand shifts. During holidays, such as Valentine's Day, Easter, and Mother's Day, demand in the U.S. peaks. U.S. growers depend upon these peaks for volume sales and high revenue in order to operate profitably. Thus, the U.S. industry, although enduring price-supply effects similar to those in the EC, requires more protection during the winter season. And, as shown by Table 4, *supra*, it is precisely during the winter season in which the majority of the imports are concentrated, leading to conditions of market saturation and over-supply.

12. The nature of the price/supply relationship in the roses market has been well characterized by the International Trade Commission. "Fresh cut roses are a perishable agricultural commodity extremely susceptible to price decreases. Agricultural economists find that *"Relatively small increases in supply tend to create low-price glut conditions which actually provide less revenue to the total industry, even though sales go up."Fresh Cut Roses From Colombia*, Inv. 731-TA-148 (Preliminary), USITC Pub. 1450 at 11, 12 (Nov. 1983) (Views of Commissioner Lodwick) (citing Penn State University, Agricultural Economist Alvi O. Voight, "Market Supply Is Critical Item in Pricing Balance of Roses," *Southern Florist and Nurseryman*, p. 13 (May 9, 1969)).

13. In warning that the special nature of agriculture, including the cyclical nature of much agricultural production, gives rise to special problems in determining whether an agriculture industry is materially injured, the Senate Finance Committee's report on the 1979 Act used as an example the livestock sector in which gross sales and employment could be increasing at a time when economic loss is occurring, as where cattle herds are being liquidated because prices make the maintenance of the herds unprofitable. S. Rep. 249, 96th Cong., 1st Sess. 88 (1979). This warning and this example have an apt analogy in the condition of the domestic rose-growing industry: The rapid influx of imports and the effect of excess supply represented by the imports on market prices are the major causes of the price suppression, which in turn has constricted the financial results of rose growing operations to persistent losses; the domestic growers have received no return on the considerable investment required for the production of fresh cut roses; this in turn has disabled the rose growers from making the capital investments required to increase their area in production, their greenhouse areas, and the number of plants in production commensurate with the growth in demand.

14. As shown by Table 5, below U.S. rose growers have been unable significantly to raise prices due to the impact of surging imports on the U.S. market. Moreover, in recent years the imports, while seriously underselling U.S. growers on a week-to-week basis, because of their heavy *concentration of volume in the winter months during which demand is at a peak and prices are higher* (*see* Table 4, *supra*), have been able to obtain a higher annual average price than the domestic industry. U.S. producers must serve the market year round yet are denied the needed revenues by foreign producers who take away large volumes of potential orders during the peak selling periods.

TABLE 5.—COMPARISON OF AVERAGE NET REALIZED SELLING PRICES RECEIVED BY DOMESTIC ROSE GROWERS WITH AVERAGE LANDED COST, DUTY PAID PRICES OF COLOMBIAN AND OTHER FOREIGN SOURCE ROSES SOLD TO THE UNITED STATES

[In dollars per bloom]

Period	Avg. net real. price, domestic	Avg. duty-pd landed cost all imports	Margin: Dom-Imp/Imp (percent)
1979	$0.243	$0.212	14.6
1980	.246	.223	10.0
1981	.230	.229	0
1982	.238	.239	0
1983	.258	.286	−9.0
1984	.260	.285	−8.0

Sources: Import prices are landed cost, duty paid prices derived from the Commerce Department, Bureau of the Census import statistics; domestic prices are average realized selling values provided by domestic producers.

15. Imported roses were priced substantially below domestic producers' prices in 1979 and 1980. Because of the price impact of the surge in imported roses, particu-

larly since 1980, domestic growers and other imports had to reduce prices in 1981 and suppress price increases thereafter in an attempt to market a significantly larger volume of roses. This price reduction helped slow to a minor degree the rate of increase in volume and market penetration of imports in 1983, *see* Table 3, *supra*, but at the expense of the substantial suppression of sales revenue and consequent poor profitability due to price depression in 1983.

16. The increased imports caused in part by the diversionary effects of the dual-rate EC tariff have caused serious losses in the U.S. producers' *market shares*. As is shown in Table 6, following, imports from all countries have steadily increased from 6.6% of apparent domestic consumption in 1979 to 28.5% in the first quarter of 1985. It is ominous indeed that, by comparison to U.S. production, imports have increased to nearly 40 percent of U.S. growers' production in the first quarter of 1985.

TABLE 6.—U.S. IMPORTS FOR CONSUMPTION, U.S. PRODUCERS' PRODUCTION, SHIPMENTS AND EXPORTS, AND APPARENT DOMESTIC CONSUMPTION OF FRESH CUT ROSES

[In millions of blooms]

	1979	1980	1981	1982	1983	1984	1st qtr. 1985
Imports: all countries	35.3	38.5	67.5	94.1	126.1	158.8	43.8
Domestic producers:							
Shipments	482.0	461.3	456.8	454.4	490.2	499.2	109.9
Production	492.0	471.3	466.8	464.4	500.2	509.2	112.4
Exports	10.0	10.0	10.0	10.0	10.0	10.0	2.5
Apparent U.S. consumption	517.3	499.8	524.3	548.5	616.3	658.0	153.7
Imports as percent of app. dom. cons.	6.8	7.7	12.9	17.3	20.5	24.1	28.5
Imports as percent of dom. production	7.2	8.2	14.5	20.3	25.2	31.2	39.0

Sources for table 6: Import data from Table 3, supra. Domestic production and shipment data: 1979, USITC Pub. No. 841, 1979, Table 3; 1980–1982, USITC Pub. No. 1450; 1981–1983, USITC Pub. No. 1575 at A–10; 1984 and 1985 derived from 1984 Sweetheart and Hybrid Tea production figures (and 1985 projections) reported by U.S. Department of Agriculture, "Floriculture Crops 1984 Summary and Intentions for 1985" (March 1985) for major producing states prorated by the factor utilized by the ITC in USITC Pub. No. 1575, supra, to derive 50 states' production.

17. The production of fresh cut roses in a floricultural industry is a sector of agricultural production. As such it has special characteristics which make this industry very import sensitive. Chief among these is the fact that fresh cut roses are a highly perishable, fungible commodity and are extremely price-sensitive to supply. Correlatively, the demand for fresh cut roses is price inelastic. The distribution structure for fresh cut roses is such that price reductions made by domestic rose growers are not passed on to the consumer by either wholesalers or retailers. The principal effect of increased imports is to imbalance the supply/demand equation with the necessary result of depressing prices. The increased imports from Colombia and other countries have destabilized the principal markets for the sale of fresh cut rose to wholesalers and retailers almost continuously during the past four years. As a result, domestic rose growers have suffered severe price suppression and the elimination of profits and any appreciable return on their investment in producing areas and facilities. These price phenomena interact with the continuing increase in imports surplus to the level of demand so as actually and potentially to deprive the domestic rose growers of profitable operations, cash flow, and the ability to maintain their rose-growing greenhouses in a state of modern efficiency.

18. As is well know to this Subcommittee, all the efforts of the American rose growers to stem the flow of imports through available administrative remedies have been unsuccessful. Escape clause actions under Section 201 of the Trade Act of 1974 on all fresh cut flowers in 1977, and on roses in 1979, were unsuccessful. In each case, after the negative finding by the ITC, there was a surge in imports. The rose growers filed countervailing duty petitions against roses from Israel, Colombia, Mexico and the Netherlands, and an antidumping petition against roses from Colombia. Only against Israel were countervailing duties imposed.

19. The fact of *dumping* of *Colombian* roses was established by the Department of Commerce, but the ITC by a divided vote determined there was no material injury. Roses Inc. has appealed to the Court of International Trade (CIT) the negative determination of the ITC in the Colombian roses antidumping case, as well as the dumping margin measurement of the ITA (Department of Commerce).

20. The Department of Commerce determined that fresh cut flowers from Colombia were being subsidized, but after making this determination, a suspension agreement was entered into with respect to such subsidies. The relief granted via the sus-

pension agreement with respect to subsidized roses from Colombia is purely illusory, however. The Colombian agreement to suspend its rose industry's receipt of benefits under Colombia's principal export subsidy program (CAT) has been circumvented by the introduction of a very similar program (CERT) which, while reducing subsidies on rosess exported to the United States (previously 4%, now 1%), confers additional benefits on rose exported to other countries (previously 4%, now 25%), thereby fully restoring the unfair advantage enjoyed by the Colombian growers.

21. The *Mexican* subsidies were not countervailed on the basis of a rule of decision that those benefits were not actionable because they are "generally available". This rule has been overruled by the CIT in *Bethlehem* v. *United States*, 7 CIT ———, 590 F. Supp. 1237, 1245 (1984). *And see Agrexco Agricultural Export Co.* v. *U.S.*, 9 CIT ———, Slip Op. 85–13 at 8 (February 1, 1985). The Mexican determination has been appealed to the CIT.

22. Relief from subsidized imports from the Netherlands was denied when the ITC made a finding that there was no reasonable indication of material injury to the domestic rose growing industry by reason of subsidized roses from the Netherlands. The Commission's decision was based on its refusal to cumulate imports from the Netherlands with other unfairly traded imports. But, the Congress overruled the ITC's practice of refusing to cumulate imports by enacting Section 612(a)(2) of the Trade and Tariff Act of 1984.

23. As the rose growers to date have not been able to obtain the full measure of relief to which they are entitled through the administrative remedies established by the Congress, and as they continue suffer serious injury from increasing imports, they now address this Congress to redress their grievances by the enactment of H.R. 1701. Amendment of the U.S. tariff schedules to provide for a 17% *ad valorem* duty during June-October and a 24% rate during November-May should slow the surge of imported roses during the critical winter season including the periods of peak demand for fresh cut roses. This measure to return stability to the U.S. market is essential to the survival of America's flower growers.

STATEMENT OF LESLIE ALAN GLICK AND LOUIS S. MASTRIANI, COUNSELS, VISAFLOR, S.A.

On May 16, 1985, the Chairman of the Subcommittee on Trade No. 8 of the Committee on Ways and Means, the Honorable Sam M. Gibbons, invited testimony on a number of miscellaneous tariff and trade bills which include H.R. 1701. Written comments were requested to be filed by June 28, 1985.

These comments are filed on behalf of VISAFLOR S.A., a Mexican producer and exporter of roses. VISAFLOR and its U.S. customers, which include importers in Houston, San Antonio and Dallas, Texas, as well as numerous floral wholesalers, retailers and consumers, would be adversely affected by the proposed legislation.

VISAFLOR is in the business of primarily exporting roses to the United States. Its roses are generally the "Visa" variety which is considered exceptional in its quality and is in demand by florists and consumers. The reasons for VISAFLOR's opposition to this bill are set out below:

(1) This legislation is unnecessary and unjustified

VISAFLOR strongly believes that any legislation increasing the duty on roses, particularly by the large amounts proposed in H.R. 1701, is entirely unnecessary. Mexican exports of roses represent a *de minimis* 1% share of the entire U.S. consumption of roses. *See* Table 3. The U.S. market for roses has been growing, as well as the demand for quality roses such as those produced in Mexico. Although imports have increased, they have increased to meet growing demand and consumption. *See* Tables 1 and 2. If hearing are held on this bill, VISAFLOR proposes to present testimony from U.S. importers and customers testifying to the high quality and long life of the Mexican rose compared to comparable types available in the U.S. and the inability of U.S. growers to meet the demand of florists and consumers. *See* attached Exhibit A, June 21, 1985 letter from Quality Roses International, Inc. The "VISA" variety rose is a cool weather rose and thrives in certain areas of Mexico. American growers have had only marginal success with this variety because of the unfavorable U.S. climate conditions. Florists and consumers in the U.S. would not be able to obtain roses of good quality which will have a long shelf life on a predictable year-round basis if it were not for imported roses, such as those from Mexico.

There is currently an 8% duty on roses. This is a relatively high duty considering that after the Tokyo Round tariff cuts, the average duty on all products had been reduced to 5% or below. This 8% duty is not scheduled for any further phased-in reductions as a result of trade negotiations. Information obtained from importers of

VISAFLOR, some of which is set out in attached Exhibit A, indicates that the Mexican wholesale prices are in many cases substantially higher than U.S. prices, in fact as much as double. Moreover, this is before the costs of freight and duty are added in. Therefore, price is not a principal factor in the importation and sale of Mexican roses in the United States; it is essentially the quality and availability of Mexican roses which accounts for their popularity among florists and consumers. To impose a punitive duty, as proposed in H.R. 1701, which would be as high as 24% *ad valorem* during the winter months, accomplishing nothing but the penalizing of U.S. wholesalers, florists and consumers and an unjustifiable and undeserving windfall of profits for U.S. flower growers.

(2) Similar legislation has been considered and rejected by previous Congresses

Similar legislation has been previously considered and rejected by both the 97th Congress, (H.R. 2639 and S. 2466), and by the 98th Congress, (H.R. 1146 and S. 1296). After receiving testimony, written statements and the normal consideration given to trade and tariff bills, this Committee and its counterpart in the Senate in their wisdom have determined that these predecessor bills were without merit in two past Congresses. There have been no developments with respect to the U.S. rose market since these actions by the Congress which would justify different treatment of this proposed legislation. In fact, as is discussed further below, U.S. domestic production and consumption of roses have been steadily growing during the last several years.

(3) The domestic rose-growing industry is improperly invoking the protection of Congress when other agencies of the Government have already considered the industry's claims

Roses, Inc. has filed many complaints against imported roses under virtually all of the trade statutes. In many of these cases, agencies of the U.S. Government have found that the U.S. rose industry was *not* being injured by imports. In both 1977 and 1979, the U.S. International Trade Commission conducted Section 201 (Escape Clause) investigations and determined that the U.S. domestic flower growers and rose growers were *not* being injured by imports. *Fresh Cut Roles*, Investigation No. TA-201-42, USITC Pub. 1059 (April 1980); *Fresh Cut Flowers*, Investigation No. TA-201-22, USITC Pub. 827 (August 1977).

Roses, Inc. filed twin countervailing duty petitions in 1980 concerning roses from the Netherlands and Israel. The International Trade Commission determined that the U.S. rose industry was not being injured by imported roses from the Netherlands. *Fresh Cut Roses From the Netherlands*, Investigation No. 701-TA-21, USITC Pub. 1041 (February 1980). Although marginal subsidies were found by the International Trade Administration in the fresh cut roses from Israel investigation, no injury determination was made by the International Trade Commission because Israel was not a signatory to the international agreement which requires the United States to add the injury test to countervailing duty investigations. *Fresh Cut Roses from Israel*, 45 Fed. Reg. 58516 (September 4, 1980), amended 46 Fed. Reg. 44486 (September 4, 1981).

In a countervailing duty investigation of fresh cut flowers from Mexico, which included roses, and in which the undersigned counsel represented the Mexican flower exporters, the U.S. International Trade Administration issued a final negative determination finding that the Mexican Government did not provide any illegal subsidies to the Mexican flower-growing industry. *Fresh Cut Flowers From Mexico*, 49 Fed. Reg. 15007 (April 16, 1984). Similarly, in an antidumping case filed by Roses, Inc. against fresh cut roses from Colombia, the U.S. International Trade Commission on August 28, 1984, found that there was no injury to the domestic rose producers. *Fresh Cut Roses From Colombia*, Investigation No. 731-TA-148, USITC Pub. 1575 (September 1984). This last determination of no injury to the U.S. rose industry is highly significant because Colombia accounted for 76 to 80 percent of total imports, and approximately 14 to over 18 percent of apparent U.S. consumption for the period 1982 through 1984. For the same period, Mexico accounted for 1.0 to 4.5 percent of total imports and 0.18 to 1.0 percent of U.S. consumption. *See* Tables 2 and 3.

Clearly, it would be improper for Congress to second guess the various agencies to which it has delegated and charged the functions of determining whether imports are injuring U.S. producers due to unfair trade practices or increased market penetration. Roses, Inc. has fully utilized and pursued its remedies before the International Trade Administration and the International Trade Commission, and both agencies have given the U.S. rose industry every consideration under the trade statutes. H.R. 1701 was filed on behalf of the domestic rose growers, without even the pretext of a basis related to unfair trade practices or injury. After consistent failure to demonstrate injury from imports cognizable under the U.S. trade laws, the U.S. rose industry is blatantly seeking a protectionist tariff which would injure U.S. con-

sumers, wholesalers, and retailers, violate the General Agreement on Tariffs and Trade (GATT) and create diplomatic problems with many important U.S. trading partners.

The countries involved in exporting these products include developing countries, including Mexico, Guatemala, Costa Rica, the Dominican Republic and Colombia. Many of these countries, particularly Mexico, have undergone severe economic problems and this economic situation has placed an increased burden on Mexican companies to pay their debts in dollars to U.S. banks, and to buy U.S. products in dollars. It is only through the foreign exchange earned through exports that Mexican companies can service their debts to U.S. banks and continue to buy U.S. products and supplies. A punitive duty, such as that proposed in H.R. 1701, would virtually eliminate Mexican exports of roses to the United States and further add to the economic hardships experienced in Mexico. It would undoubtedly have a similar adverse impact in other developing countries.

Since this bill is linked to the European Economic Community (EEC) duty on roses and thus appears to be based on a concern with the more developed countries that are exporting the product, particularly the Netherlands, other methods than an indiscriminate duty increase should be sought by the domestic industry. The duty proposed in H.R. 1701 would injure all foreign floral exporters without distinction, is patently unfair and protectionist and does not deserve further consideration by this Congress. If the target of the proposed bill is the high EEC duty protecting the European market, then the domestic growers should seek negotiation through the GATT mechanisms, or file complaints to the appropriate consultative mechanisms that exist in the GATT. Domestic growers have other options such as a Section 301 (19 U.S.C. § 2411) action against the EEC, if they believe there is discrimination against flower imports in that market.

Conclusion

VISAFLOR strongly urges that the proposed legislation, H.R. 1701, not be reported from Committee and requests the opportunity to present further oral and written testimony should this subcommittee decide to hold hearings on this bill.

EXHIBIT A

QUALITY ROSES INTERNATIONAL INC.,
Houston, TX, June 21, 1985.

Mr. LESLIE ALAN GLICK,
Adduci, Dinan & Mastriani, Attorney At Law,
Washington, DC.

MR. GLICK: This letter is to express our concern about and opposition to the proposed bill known as H.R. 1701 which would increase the rate of duty paid on imported roses.

Quality Roses International, Inc., currently imports roses from both Mexico and Costa Rica. It is the intent of this letter to show that the importation of roses from other countries has little or no effect on the domestic market and does not adversely affect the prices domestic growers can demand for their product. We will attempt to outline the differences between the domestic (using California as an example) and foreign (using Mexico as an example) markets. We think you will see how very difficult it is for us to compete in the market as is now without additional costs and associated financial difficulties.

1. Californian roses prices for summer months—.10–.12/Stem. Mexican rose prices for summer months—.20–.25/Stem. Californian rose prices for winter months—.20–.25/Stem. Mexican rose prices for winter months—.40–.45/Stem.

In addition to the price of the flower we must include costs of duty and freight-in; this adds approximately an additional .06/Stem which we in turn must build into our price structure.

2. The production level on roses grown in the United States is erratic due to uncontrollable elements such as weather. Because of this situation, it is fortunate that there are optional sources of supply, otherwise, wholesalers and in the end consumers would have to pay phenomenal prices should production be very low. The market is also expanding. Foreign-grown roses fill a vital need in this expansion market since demand far exceeds supply provided by domestic growers. This bill will encourage over-inflated prices since it is not possible for domestic growers to meet year-round demand even at peak production levels.

3. Quality Roses, and in turn, our customer (the wholesaler) buys Mexican roses based not generally on price (as you can see we are not competitive within the domestic price structure) but based on the quality and variety of roses offered. We

find, however, that in a depressed market Mexican rose sales fall drastically because buyers go for cheaper prices not necessarily better quality and in these situations companies such as ours simply go into a survival mode.

In conclusion, we feel this bill could further jeopardize our company's ability to compete in a market where domestic flowers already have a clear advantage and we would have to give serious consideration to the feasibility of continuing operations in what we feel is becoming a no-win situation.

Respectfully yours,

SUSAN E. MYRICK, *General Manager.*

TABLE 1.—FRESH CUT ROSES: U.S. PRODUCTION, IMPORTS FOR CONSUMPTION, AND APPARENT CONSUMPTION, 1982–84

Period	Million blooms			Percent ratio of imports to—	
	Production	Imports	Apparent consumption	U.S. production	Apparent consumption
1982	464.4	91.1	548.5	20.3	17.2
1983	500.2	126.1	616.3	25.2	20.5
1984	[1] 509.0	158.8	[1] 658.0	31.0	24.0

[1] Estimated by the U.S. International Trade Commission.

Source: Compiled from official statistics of the U.S. Department of Commerce except as noted.

TABLE 2.—FRESH CUT ROSES: TOTAL U.S. IMPORTS FROM SELECTED COUNTRIES, 1982–84

[In million blooms]

Period	Total imports	Colombia	Netherlands	Israel	Mexico
1982	94.1	75.4	5.2	5.3	1.0
1983	126.1	98.7	7.2	4.3	4.9
1984	158.8	121.5	9.3	5.5	7.1

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

TABLE 3.—U.S. IMPORTS FROM SELECTED COUNTRIES AND APPARENT U.S. CONSUMPTION, YEARS 1982–84

Period	Percent ratio of selected imports to total imports for U.S. consumption				Apparent U.S. consumption,[1] million blooms	Percent ratio of selected imports to apparent U.S. consumption			
	Colombia	Netherlands	Israel	Mexico		Colombia	Netherlands	Israel	Mexico
1982	80.0	5.5	5.6	1.0	548.5	13.8	0.95	0.97	0.18
1983	78.0	5.7	3.4	3.9	616.3	16.0	1.2	.70	.80
1984	76.0	5.9	3.5	4.5	658.0	18.5	1.4	.83	1.0

[1] Estimated by the U.S. International Trade Commission.

Source: Compiled from official statistics of U.S. Department of Commerce, except as noted.

H.R. 1716

To lower for a 3-year period the duty on L-Ephedrine hydrochloride

U.S. DEPARTMENT OF COMMERCE,
Washington, DC, June 21, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in response to your request for the views of this Department on H.R. 1716, a bill "To lower for a 3-year period the duty on L-Ephedrine hydrochloride."

The Department opposes enactment of H.R. 1716.

H.R. 1716 would reduce the column 2 (statutory) duty on imports of L-Ephedrine hydrochloride to match the 1985 column 1 (MFN) duty. The MFN duty is unaffected by this legislation. L-Ephendrine hydrochloride currently enters the United States under Tariff Schedules of the United States (TSUS) item 411.31, with a column 1 (MFN) duty of 4 percent *ad valorem* and a column 2 duty of 7 cents per pound plus 59 percent *ad valorem*. As a result of concessions made in the Tokyo Round of trade negotiations, the MFN duty on TSUS 411.31 will be reduced in stages to 3.7 percent *ad valorem* by January 1, 1987. This product is not eligible for duty-free treatment under the U.S. Generalized System of Preferences.

We oppose unilateral tariff reductions when such reductions could affect the competitive posture of present or future U.S. producers without providing offsetting benefits for the United States. In this case, we think that enactment of H.R. 1716 is likely to deter two potential U.S. producers from initiating production in the next year.

We estimate that there would be no revenue loss from enactment of H.R. 1716. The duty reduction involves only the column 2 duty. There have been few imports of this product from countries assessed Column 2 duties in the past few years. Enactment of H.R. 1716 will have no effect on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to Congress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS, *General Counsel.*

GANES CHEMICALS, INC.,
New York, NY, June 25, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, DC

DEAR MR. CHAIRMAN: In response to the press release issued by the Subcommittee on Trade on May 15, 1985, concerning the miscellaneous traffic bills now pending before the Subcommittee, Ganes Chemicals, Inc. hereby submits its comments in opposition to H.R. 1716. That bill would eliminate the Column 2 duty rate (applicable to a limited number of countries to whom the United States does not extend Most Favored Nation treatment) for a period of three years with respect to imports of L-Ephedrine hydrochloride, applying the Column 1 rate instead.

Ganes Chemicals, Inc. has been a manufacturer of fine medicinal chemicals for over fifty years. Ganes has its plants in Carlstadt and Pennsville, New Jersey and its administrative office in New York City. The company employs over 100 people.

The product involved in this legislation is the prime raw material used to produce pseudoephedrine, which is then sold to pharmaceutical companies for use as a decongestant in both over-the-counter and prescription drugs. A small amount of L-Ephedrine hydrochloride is used, without conversion to pseudoephedrine, in produc-

ing other medicines. Pseudoephedrine is the single largest-selling product in Ganes' product line, accounting for approximately 20 percent of sales.

The principal reason why the Subcommittee should not adopt this legislation is that it would seriously hinder development of U.S. production of L-Ephedrine hydrochloride. While there is no current U.S. production of this item, there is potential for significant production, especially from application of biotechnology processes. We are aware of efforts now underway in the United States to bring biotechnology-based methods of producing L-Ephedrine hydrochloride to commercial scale application in the near future. Passage of this legislation would create significant problems in realizing the promise of these technologies.

Until now, the primary sources of this item have been the Peoples Republic of China, where it is found naturally, and West Germany, where it is made using a fermentation/syntheticorganic process. These two sources have been and remain fully capable of serving the U.S. market. Adding another imported source—Czechoslovakia—through the duty reduction envisioned by this legislation would necessarily create an extremely difficult competitive situation for any possible new U.S. entrants.

There are three additional reasons why H.R. 1716 should not be enacted. First, unlike many of the bills included in the miscellaneous tariff process, H.R. 1716, as noted above, involves a very substantial reduction of duty on a product which is already subject to competition in the marketplace. There are major sources of this product from two different countries. These sources are fully capable of supplying the demand on the U.S. marketplace. There is no commercial need, therefore, to disrupt the existing tariff system, even in the absence of any new U.S. production.

Second, both of the existing sources should be preferred to imports from an Eastern bloc country. The decision by the United States not to extend Most-Favored-Nation treatment to the latter country should not be repealed piecemeal on a product-by-product basis. In this case, the source of the imported product would apparently be Czechoslovakia, a country which has not enjoyed MFN treatment since the Communists took over in 1948.

Third, the transactions necessary to import this product from Czechoslovakia would almost certainly involve countertrade, i.e., a form of barter. While there may be no legal prohibition of this type of transaction, it is generally the policy of the United States to discourage the use of countertrade. If this legislation were enacted, however, the United States would be making the opposite policy choice, actually encouraging a particular countertrade transaction. This would certainly give the wrong signal to those countries which the United States is trying to convince to stop engaging in countertrade.

In short, the passage of this bill would be a misuse of the temporary duty suspension process. The effect could well be to inhibit or halt entirely the prospect of production of the product in the United States. Such an action would also amount to choosing one American company at the expense of another American company. It would benefit a country to whom the United States has consciously chosen not to extend preferred trade benefits. Finally, it would encourage a form of international trade transaction which the United States has officially discouraged.

We appreciate the opportunity to provide these comments and would be pleased to respond to any questions you, other members of the Subcommittee, or the staff may have on this issue. It is a matter of great importance to our company, and we urge you to oppose enactment of this legislation.

Sincerely,

EMIL GUNTHARDT, *President.*

OUTLINE OF COMMENTS AND RECOMMENDATIONS SUBMITTED BY GANES CHEMICALS, INC. IN OPPOSITION TO H.R. 1716

Nature of the legislation.—H.R. 1716 would temporarily eliminate the Column 2 (non-Most-Favored-Nation) duty rate, applying the Column 1 rate instead, for imports of L-Ephedrine hydrochloride.

Product involved.—L-Ephedrine hydrochloride is the prime material used to produce pseudoephedrine, which is then sold to pharmaceutical companies for use as a decongestant in both over-the-counter and prescription drugs. A small amount of L-Ephedrine hydrocholoride (without conversion to pseudoephedrine) is used in other medicines.

Ganes Chemicals, Inc.—Ganes has been a manufacturer of fine medicinal chemicals for over fifty years. Ganes has its plants in Carlstadt and Pennsville, New Jersey and its administrative offices in New York City. Ganes currently imports L-

Ephedrine hydrocholride and uses it to produce pseudoephedrine, which is its largest selling product, accounting for about 20 percent of Ganes' sales.

Major Reason Not to Enact H.R. 1716.—Recent advances in biotechnology may make U.S. production of L-Ephedrine hydrocholoride viable in the near future. Enactment of H.R. 1716 would severely impede the start up of U.S. production.

Additional Reasons to Oppose H.R. 1716.—

1. There is no commercial need to disrupt the existing tariff system. Even without current U.S. production, the market is competitive and fully supplied from existing sources—the People's Republic of China and West Germany.

2. Enactment of the bill would be a piecemeal approach to the issue of Most-Favored-Nation treatment for Czechoslovakia, the likely beneficiary for the elimination of the Column 2 duty rate. If MFN treatment is to be extended, there should be full consideration of all relevant factors.

3. Purchases from Czechoslovakian suppliers will almost certainly involve countertrade, a form of barter. Countertrade transactions are discouraged by the United States, as a matter of policy. Enactment of H.R. 1716 would serve the opposite policy, actually encouraging countertrade.

STATEMENT OF DONALD C. ALEXANDER AND FREDERICK P. WAITE, COUNSELS, KNOLL FINE CHEMICALS

The purpose of this statement is to oppose the reduction in the Column 2 rate of duty for imports of l-ephedrine hydrochloride from communist countries. H.R. 1716 would provide for such reduction to the rate of duty currently reserved for countries with most-favored-nation (MFN) status.

Knoll Fine Chemicals opposes H.R. 1716 for two reasons:

(1) An adequate supply of l-ephedrine hydrochloride is available from our MFN trading partners, and there is, therefore, no economic justification for reducing the rate of duty for this product from communist countries.

(2) This legislation would permit communist countries, and in particular Czechoslovakia, to obtain MFN status for certain products without meeting the requirements of Section 402 of the Trade Act of 1974. It would be a dangerous precedent to enable communist countries to circumvent the Congressionally-mandated requirements of that Act.

This statement is submitted on behalf of Knoll Fine Chemicals in opposition to H.R. 1716, which proposes a reduction in the Column 2 rate of duty for l-ephedrine hydrochloride.

Knoll Fine Chemicals ("Knoll") is a division of Knoll Pharmaceutical Company, a New Jersey corporation. Knoll is engaged in the importation, sale and distribution of pharmaceutical chemicals, including l-ephedrine hydrochloride, manufactured by Knol A.G., an affiliated West German producer of pharmaceuticals and specialty chemicals.

The purpose of this statement is to oppose the proposed reduction in the rate of duty on l-ephedrine hydrochloride imported from communist countries. l-ephedrine hydrochloride is a synthetic chemical used to produce pharmaceutical products for the treatment of respiratory ailments, including asthma and bronchitis symptoms, and used for conversion into pseudoephedrine. The principal producers of l-ephedrine hydrochloride and its commercial substitute, natural ephedrine, are the Federal Republic of Germany, Czechoslovakia, and the People's Republic of China.

L-ephedrine hydrochloride is presently classified under item 411.3100 of the Tariff Schedules of the United States ("TSUS"). The Column 1 rate of duty is currently 4 per cent *ad valorem*, and the final most-favored-nation ("MFN") concession rate for this product is 3.7 per cent *ad valorem*. The Column 2 rate of duty is 7 cents per pound and 59 per cent *ad valorem*. The Column 2 rate is applicable to imports from most communist countries, including Czechoslovakia. 19 U.S.C. § 1202, General Headnote 3(f), TSUS.

Following the conversion of the TSUS into the nomenclature of the Harmonized System, l-ephedrine hydrochloride and natural ephedrine will be classified under item 2939.40.5000 as "ephedrines and their salts, other." The Column 1 rate of duty will be 3.7 per cent *ad valorem*, while the Column 2 rate will be 15.4 cents per kilogram and 59 per cent *ad valorem*.[1]

---

[1] The change in the Column 2 rate reflects the conversion to the metric system under the Harmonized System of Tariff Schedules.

Pending before the Subcommittee in H.R. 1716, a bill to lower the Column 2 rate for l-ephedrine hydrochloride to the current Column 1 rate. The effect of the bill is to give communist countries, notably Czechoslovakia, the lower duty rate peresently reserved for Column 1 countries with MFN status. Knoll Fine Chemicals opposes H.R. 1716 for the following reasons:

I. There is no economic rationale for reducing the duty rate on l-ephedrine hydrochloride imported from communist countries

The sponsors of H.R. 1716 have suggested that increased U.S. demand for l-ephedrine hydrochloride requires that the rate of duty for importations from a non-traditional source, Czechoslovakia, be reduced. The facts, however, do not support this argument.

A. No significant increase in demand

Since 1978, the importation of l-ephedrine hydrochloride and natural substitutes has increased and decreased periodically, indicating no general trend of increased demand.[2] The value of imported ephedrine, as evidenced by the official statistics maintained by the Department of Commerce, has also fluctuated during the same period. At no time during the period, however, has the value increased at a rate greater than the inflation rate for general medical services. These facts would indicate that the supply of l-ephedrine hydrochloride has been adequate to meet U.S. demand for the product.

B. Present suppliers meet demand

The Federal Republic of Germany is a major supplier of l-ephedrine hydrochloride to the U.S. market. West German manufacturers, such as Knoll A.G., have sufficient capacity to meet current U.S. demand for the product, and additional production capacity is being added to meet projected demand in the United States and elsewhere. For example, Knoll A.G. will double its ephedrine and pseudoesphedrine capacities over the next two years at a cost of $10,000,000. *See* Attachment I. In addition, the People's Republic of China is a major producer of natural ephedrine. In the even of a significant increase in demand, the People's Republic of China can be expected to increase the level of its shipments to the United States. Thus, there is no economic rationale for reducing the rate of duty on l-ephedrine hydrochloride from hydrochloride from Czechoslovakia because existing demand is bveing satisfied, and future demand will be met, by suppliers from the Federal Republic of Germany and the People's Republic of China, both of which countries enjoy MFN status.

II. There is a mechanism by which communist countries can obtain MFN status and that mechanism should be utilized.

As a general principle, the United States imposes higher rates of duty for products imported from communist countries than for the same products imported from other countries. 19 U.S.C. § 1202. This disparity in treatment is the result of deliberate policy, and it reflects economic, political and strategic considerations in this Nations relations with communist countries. 1962 *U.S. Code Cong. & Ad. News* 3124-3125, 3135.

Nevertheless, as part of the Trade Act of 1974, 19 U.S.C. §§ 2101 *et seq.* (the "Trade Act"), Congress has created a mechanism whereby a communist nation subject to the Column 2 rates of duty can obtain MFN status. Section 402 of the Trade Act authorizes the President to extend MFN status to a communist country whose products do not currently receive such treatment if that country observes certain standards with respect to the freedom of its citizens to emigrate. 19 U.S.C. § 2432. *See also* 19 U.S.C. § 2438 for additional restrictions in the case of Czechoslovakia. Since enactment of Section 402, the United States has extended MFN treatment under the terms of the Trade Act to three communist countries—Romania, Hungary and the People's Republic of China.[3]

Thus, Congress has already legislated a specific procedure by which communist countries can obtain MFN status. This procedure is available to Czechoslovakia in the event that it wants to obtain MFN treatment of its exports, including l-ephedrine hydrochloride, to the United States.

---

[2] U.S. Department of Commerce: *Import Statistics*, January 1978-March 1985.

[3] The Socialist Republic of Romania was granted MFN status by Executive Order No. 11854, April 24, 1975; the Hungarian People's Republic was granted MFN status by Executive Order No. 12051, April 7, 1978; and the People's Republic of China was granted MFN status by Executive Order No. 12167, October 23, 1979.

III. It would establish a dangerous precedent to permit a communist nation to obtain MFN status without meeting the standards set forth in section 402 of the trade act

In the instant case, legislation that would grant MFN status a communist countries which manufacture l-ephedrine hydrochloride has been introduced in the interest of a U.S. company which imports the chemical to use as an ingredient in various pharmeceutical products. While this legislation has been proposed on behalf of a domestic customer, its passage would enure directly to the benefit of the Government of Czechoslovakia, which would thereby be relieved from meeting the standards set forth in Section 402 of the Trade Act. IT would establish a dangerous precedent to permit communist countries to obtain MFN status in any circumstances where there exist domestic interests which seek to import products from such communist countries.

IV. Conclusion

In conclusion, Knoll Fine Chemicals opposes H.R. 1716 for two compelling reasons. First an adequate supply of l-ephedrine hydrocloride is available from our preferred trading partners, and there is no economic rationale to justify lowering the duty rate on l-ephedrine hydrochloride from communist sources. Second, this legislation would permit Czechoslovakia to obtain MFN status without meeting the standards established by Congress "to assure the continued dedication of the United States to fundamental human rights . . ." 19 U.S.C. § 2432(a). Legislation which circumvents these Congressionally-mandated standards would establish a dangerous precedent for United States trade and foreign policy.

Accordingly, we respectfully urge the Committee to reject the reduction in the Column 2 rate of duty proposed by H.R. 1716 as unnecessary and unwise.

[Attachment I]

KNOLL TO DOUBLE EPHEDRINE CAPACITY

LUDWIGSHAFEN, WEST GERMANY, June 27, 1985.—Knoll AG, the pharmaceutical arm of the BASF Group, will double its ephedrine and pseudoephedrine capacities from 350 to 700 metrice tons per year. The cost will total $10 million. The new plants, to be built in stages, are slated for completion in 1987. They will incorporate the latest technology.

With this expansion Knoll solidifies its position as the World's largest ephedrine producer. The added capacities will serve to meet current growth in demand as well as future needs. Ephedrine, above all pseudoephedrine, is an active pharmaceutical substance in cold remedies.

Knoll operates in the United States through Knoll Pharmaceutical Company, Whippany, NJ, and New York, NY.

R.W. GREEFF & CO., INC.,
Old Greenwich, CT, April 26, 1985.

Mr. WAYNE ALEXANDER,
House Ways and Means Committee, Subcommittee on Trade, Washington, DC.

DEAR MR. ALEXANDER: We have been asked by the U.S. Department of Commerce to comment on H.R. 1716, a House Bill to change the tariff on l-Ephredrine Hydrochloride from Czechoslovakia, from Column #2 to MFN status.

What is the purpose of this suggested move when so much time and effort has been expended in various tariff negotiations, such as GATT, to work out the duty rates?

Since the product is readily available from West Germany, a friendly trading partner, we see no reason to change the duty established in serious high level trade negotiations.

Very truly yours,

ANTHONY E. D'ANDREA,
Executive Vice President.

H.B. 1734

To suspend temporarily the duty on 2,4 dichloro-5-sulfamoyl benzoic acid (also known as lasamid)

U.S. International Trade Commission

Section-by-section analysis

H.R. 1734,[1] if enacted, would add item 906.48 to the appendix to the Tariff Schedules of the United States (TSUS) to provide for a temporary suspension of the column 1 rate of duty [2] on 2,4-dichloro-5-sulfamoylbenzoic acid.[3] The column 2 rate [4] would remain unchanged. The duty suspension would be effective on the fifteenth day following the date of enactment and would end December 31, 1988.

Background and sponsor's justification

Description and uses.—2,4-Dichloro-5-sulfamoylbenzoic acid, also known as lasamid, is a cyclic intermediate chemical used to produce the drug furosemide. Lasamid is an odorless, white crystalline powder soluble in acetone, alcohol, and weak caustic solutions. The solid has a melting point range of 229–235°C. Toxicity data provides for a lethal dose in mice of greater than 3 grams per kilogram of body weight. Lasamid is produced by a proprietary process. All U.S. production of furosemide follows a reaction scheme that uses lasamid and another chemical called furfurylamine. Details of this reaction are also proprietary property.

Sponsor's justification.—The present duty on lasamid increases the direct production costs of furosemide. As of 1985, only one U.S. pharmaceutical firm manufactures furosemide domestically. This firm consumes about 95 percent of total imports of the intermediate, lasamid. As this firm is the sole domestic source for the drug furosemide, one of the sponsors of this legislation feels that suspension of the duty on lasamid is desirable because it would enable the company to be more closely competitive with imported furosemide.[5]

Comparison with present law

Tariff treatment under the TSUS.—Lasamid is classified in item 406.56 which covers other sulfonamides provided for in the Chemical Appendix to the TSUS. The column 1 duty rate is 1.7 cents per pound plus 18 percent ad valorem. The column 2 duty rate is 7 cents per pound plus 57.5 percent ad valorem. No special rate is provided for least developed developing countries (LDDCs).[6] Prior to the Tokyo Round of Multilateral Trade Negotiations (MTN), lasamid was classified under item 403.60. Effective July 1, 1980, the present item number and column 1 duty rate were established, with no provisions for staged reductions in duty rates. Lasamid is not eligible for duty-free treatment under the Generalized System of Preferences.[7] However, im-

---

[1] A companion bill, S. 757, is currently pending in the Senate Finance Committee.

[2] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Garibbean Basin Economic Recovery Act (CBERA), or under the LDDC rate of duty column.

[3] This is the correct spelling of the product name.

[4] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[5] 131 Cong. Rec. S3452 (daily ed. March 26, 1985) (remarks of Senator Chafee).

[6] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[7] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP,

Continued

ports from eligible Caribbean countries may qualify for duty-free treatment under the Caribbean Basin Economic Recovery Act.[8]

Tariff treatment under the proposed Harmonized System.—The Harmonized System (HS) commodity code number for lasamid is 2935.00.50.[9] The product is described as a sulfonamide. The column 1 duty rate, effective upon implementation of the HS, is 3.7 cents per kilogram plus 18 percent ad valorem.

Structure of the domestic industry

Lasamid is not produced in the United States. Imported lasamid is used in the domestic production of furosemide. This has proven to be the simplest and most economical reaction pathway. No other chemical produced in the United States can be substituted without necessitating major changes in production technology.

Domestic production

Commercial production of lasamid has never been established in the United States.

U.S. imports

The major importer for lasamid is the American Hoechst Corporation, which imports it from its parent company, Hoechst, AG, Frankfurt am Main, the Federal Republic of Germany. During 1979–83 the Commission's staff identified imports of lasamid ranging from a high of 121,915 pounds to a low of 48,766 pounds. Industry sources estimate that U.S. imports for consumption of lasamid were approximately 40,590 pounds in 1984. No exact figure for a unit value is available, but sources agree than an average cost of $10 per pound is realistic.

U.S. exports

During the past five years no U.S. exports of lasamid have been recorded.

Apparent U.S. consumption

No actual data for domestic consumption of this chemical are available.

Effect on revenue

Based on Commission data and industry sources, the following are estimated revenue losses for the three-year period from 1986 through 1988.

Estimated revenue loss

Year:	*Thousands*
1986	$190
1987	198
1988	206

Technical comments

The product name is spelled incorrectly in the article description of the bill. It should be spelled as follows: "2,4-dichloro-5-sulfamoylbenzoic acid".

---

enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[8] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[9] Source: Trade Policy Staff Committee, *Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System* (September 1984).

U.S. DEPARTMENT OF COMMERCE,
Washington, DC, June 24, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on H.R. 1734, a bill "To suspend temporarily the duty on 2,4, Dichloro-5-sulfamoyl benzoic acid (also known as lasamid)."

The Department of Commerce has no objection to the enactment of H.R. 1734.

H.R. 1734 would temporarily suspend the column 1 (MFN) duty on imports of 2,4, Dichloro-5-sulfamoyl benzoic acid (lasamid). The column 2 duty is unaffected by this legislation. Lasamid currently enters the United States under Tariff Schedules of the United States (TSUS) item 406.56 with a MFN duty of 1.7¢ per pound plus 18 percent *ad valorem*. No concession was made on this item during the Tokyo Round of trade negotiations. TSUS 406.56 is not eligible for duty-free treatment under the U.S. Generalized System of Preferences.

Lasamid is used to produce furosemide, a diuretic medicinal which is widely used in the United States to treat congestive heart failure. Suspension of the duty will result in a lower cost of production for the sole U.S. producer, thus enabling that company to compete with imports of furosemide (TSUS 411.98). There is no domestic production of lasamid.

Revenue loss from enactment of this bill is estimated at $1.7 million. Enactment of his legislation would have no effect on the revenues or administration costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS, *General Counsel.*

STATEMENT OF MARK EDWARD ROGART, ASSOCIATE GENERAL COUNSEL, AMERICAN HOECHST CORP., AND VICE PRESIDENT, SECRETARY AND COUNSEL, HOECHST-ROUSSEL PHARMACEUTICALS, INC.

This statement is submitted on behalf of the American Hoechst Corporation in support of H.R. 1734, introduced by Hon. James Jones, to suspend temporarily the duty on 2, 4 dichloro–5–sulfamoyl benzoic acid, also known as lasamid.

American Hoechst Coproration's subsidiary, Hoechst-Roussel Pharmaceuticals Inc. ("H-RPI"), is a research intensive pioneer developer and manufacturer of ethical pharmaceutical products. It imports lasamid from abroad and treats it intensively at its U.S. plant in order to produce furosemide which in turn is used to produce HRPI's drug LASIX®, a major diuretic used in the treatment of heart patients. H-RPI's patent on LASIX® expired in 1979 and the product, whose generic name is furosemide, now is sold in the United States by H-RPI and by several importers.

To the best of our knowledge, H-RPI is the only company that produces furosemide in the United States (employing American workers in that process). All other furosemide sold in the United States by other companies is imported, apparently all from Israel, Finland and France.

Because of an anomaly in the Tariff Schedules, H-RPI is placed in the following position: H-RPI must pay the high duty of 1.7 cents per pound plus 18% ad valorem on the lasamid it imports and them converts domestically into furosemide.

All other users of furosemide have *no* domestic manufacturing operation for furomeside and import all of the chemical from abroad at a duty of only 8.3% in 1985, phased down to 7.5% in 1986 and 6.7% in 1987.

Thus, H-RPI's importing competitors pay 8.3% for foreign imports of the finished product furosemide while H-RPI, with a major U.S. producing component, must pay 18% for the intermediate product lasamid. And indeed, now that the U.S.-Israel trade agreement has been signed by the President and ratified by both branches of the Congress, furosemide imported from Israel will be exempt from *all* duty.

Consequently, many importers of furosemide will pay no duty at all while H-RPI must pay 18% for the intermediate product. This is an unequitable result. It would be impractical for H-RPI to continue to produce furosemide in the United States when its competitors can import furosemide at a much lower cost because of the U.S. tariff structure.

H.R. 1734 temporarily would suspend the duty on lasamid for three years.

Passage of this legislation would have a strongly beneficial effect in the U.S. It will eliminate this duty inequity that artificially increases a U.S. producer's costs vis-a-vis those of its foreign competitors, remove the financial incentive for American Hoechst and H-RPI to move its production of furosemide to Europe and allow them to continue to produce furosemide in this country. That in turn will preserve the jobs of American workers, enhance U.S. balance of payments and provide other economic benefits derived from having a product manufactured domestically. It also will help hold down medical costs by making it possible to produce a major drug relied upon by many Americans at a lower cost.

There is no valid reason why there should be any duty on the importation of lasamid. There are no domestic producers of lasamid, and its only use is as a precursor to the production of furosemide. Lasamid's duty level does not represent a conscious decision as to what its particular tariff should be. Rather, it is merely one of thousands of chemicals included in TSUS 406.56 listed in the Chemical Appendix. The bill would adversely affect no domestic interests while, as explained, it would benefit considerably the nation's interest in having furosemide produced in this country. As such, the bill should be enacted.

STATEMENT OF CLARUS M. GALLOWAY, MATERIALS MANAGER OF SALSBURY LABORATORIES, INC., CHARLES CITY, IOWA

Mr. Chairman, by way of introduction, Salsbury Laboratories, Inc., is a small to medium sized company, which has a long-term committment to supplying quality products and services to the poultry and animal health, fine chemical, and generic pharmaceutical industries. Quality products at competitive prices have enabled the company to earn the confidence of the three major industries we serve.

We at Salsbury Laboratories support the passage of four (4) duty suspension bills that are presently being considered by this committee. Bills that will promote and support American manufacturers vs. foreign manufacturers of pharmaceutical products. The four bills referenced, H.R. 2228, H.R. 2332, H.R. 2333 and H.R. 1734 are individually addressed as follows:

H.R. 2228 requests the extension of the existing suspension of duty for three years on sulfapyridine. Sulfapyridine has dual applictions, one in animal health and the other as an intermediate chemical in the manufacture of sulfasalazine (SASP), a highly effective therapeutic drug for treatment of ulcerative colitis in humans. Salsbury Laboratories is the only domestic manufacturer of SASP vs. two foreign sources, Sweden (Pharmacia) and Germany (Schering).

The present duty suspension has had a very favorable impact on production and employment in our company. Nearly 20% of our total chemical production manhours are devoted to SASP. Our 1983 and 1984 production levels were over ten times that of 1982. The only way we are going to continue or improve these levels of production is through the passage of H.R. 2228. The over-inflated value of the U.S. dollar has all but negated the impact of any duties on the end-product sulfasalazine. To restore duties on the precureser sulfapyridine would completely force the only U.S. producer out of SASP production.

Salsbury Laboratories also supports passage of H.R. 1734, H.R. 2332, and H.R. 2333 requesting three (3) year duty suspensions on 2,4 dichloro-5-sulfamoyl benzoic acid; p-sulfobenzoic acid, potassium salt and 3,5-dinitro-o-toluamide. We feel that suspension of duties on these chemicals will make sustantial savings possible for American manufacturers of pharmaceutical products and employment will be enhanced due to greater domestic vs. foreign production.

Continuation of duties on these intermediates only reduces the competitive position of American produced pharmaceuticals. As previously referenced, the inflated dollar totally negates the impact of import duties on the final product, where we must compete.

Certainly some information should be given as to sources of and uses for these intermediate chemicals. The 2,4-dichloro-5-sulfamoyl benzoic acid (H.R. 1734) is used in the manufacture of Furosemide, a diuretic. Presently, there are no generic manufacturers of Furosemide, the only generic sources are imports; two from Italy, one from Israel and, perhaps soon, one from Switzerland. There are no domestic manufacturers of the intermediate 2,4-dichloro-5-sulfamoyl benzoic acid.

The p-sulfobenzoic acid, potassium salt (H.R. 2332) is an intermediate in the manufacture of Probenecide, a kidney blocker used in combination with antibiotics. Probenecid slows the function of the kidney, allowing longer body retention of the antibiotic.

Presently, there are no domestic generic manufactures of Probenecid. Plantex (Israel), to my knowledge, is the only world source of a generic product. Again, there are no domestic producers of the intermediate and its only source (other than Plantex) is a Swedish manufacturer.

The 3,5-dinitro-o-toluamide (H.R. 2333) is the active ingredient in a coccidiostat, a prophylactic pharmaceutical for the prevention of coccidiosis in chickens and turkeys; the majority used in chickens. The 3,5-dinitro-o-toluamide (DOT) is presently produced by Salsbury Laboratories but, due to declining volume, could be discontinued in the near future. Suspension of duties would allow us to extend the life of the product. DOT is a somewhat specialized product, used at low challenge periods in the production cycle. Present international manufacturers of DOT are located in Spain and Israel.

In summary, it is our contention that passage of these bills will allow American manufacturers to offer more economical generic and poultry health products and at the same time stimulate American manufacture; manufacture now being done in other countries. We feel it is unjustified to continue these tariffs which merely create jobs in other countries rather than in America.

H.R. 1737

Relating to the tariff treatment of certain telescopes not designed for use with infra-red light

U.S. International Trade Commission

Section-by-section analysis

The proposed legislation would eliminate the column 1 rate of duty [1] applicable to riflescopes valued not over $50 and telescopes valued not over $200. The column 2 rates of duty [2] would not be affected by this legislation. These changes would be effected by striking the two current Tariff Schedules of the United States (TSUS) items applicable to telescopic sights and telescopes and creating four new items distinguishing among such articles by value.

Under section 1(a), TSUS item 708.56 would be stricken and new items 708.53, covering telescopic sights valued not over $50, and 708.55, such sights valued over $50, would be inserted in the TSUS. TSUS item 708.58 also would be stricken and items 708.57, other telescopes valued not over $200, and 708.59, other telescopes valued over $200, would be inserted in lieu thereof. The column 1 duty rates for the lower-valued articles (items 708.53 and 708.57) would be "free", while riflescopes valued over $50 would be subject to the existing 20 percent ad valorem tariff rate.

Telescopes valued over $200 would be dutied at the current rate of 11 percent ad valorem and, under section 1(b)(1), would be afforded the same staged reductions in duties now scheduled to apply under TSUS item 708.58. Section 1(b)(2) would delete the least developed developing countries (LDDC) rate of duty [3] under TSUS item 708.59, when the rate of duty specified in column 1 under this tariff item is reduced to 8 percent ad valorem.

Section 2 would make these provisions effective with respect to article entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of the Act.

Background and sponsor's justification

Description and uses.—The products covered by the proposed legislation are telescopes not designed for use with infra-red light. Specifically, it encompasses telescopic sights for rifles (riflescopes) and other optical telescopes (such as terrestrial and astronomical telescopes, hereafter referred to as telescopes); but it does not include field and opera glasses and prism binoculars. The primary function of an optical telescope is to aid the eye in viewing, or the camera in photographing, distant objects.

A riflescope is a small, erect-image telescope used as a sighting device. In terms of quantity, about 90 to 95 percent of the riflescopes are used for recreational purposes, such as hunting or target shooting; and the remainder have military applications. Certain specially designed riflescopes have night vision capabilities and are principally used by the military. The primary components of a riflescope are a tube,

---

[1] The rates of duty in the column numbered 1 are most-favored nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[3] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

refractive lenses, and a reticle. Most of the tubes are made of metal, with a small number of plastics. The power of magnification of the lenses of most riflescopes lies between 1X and 18X. A reticle is the riflescope's aiming point, such as a cross hair or dot; the reticle can be moved vertically for range and horizontally to compensate for crosswind. Riflescopes for hunting and military use generally have variable lens power, which permits changing the effective focal length. In addition, most of these riflescopes are supplied with a built-in bullet drop compensator to permit adjustment for vertical projectile drop. Target riflescopes usually have fixed lens power.

A wide rage of domestically made and imported riflescopes are available on the market with varying qualities and performace capabilities. Overall, it is believed there is no significant difference between the domestic and imported articles.

The reflecting and refracting telescopes classified in TSUS item 708.58 are afocal optical devices that make distant objects more distinct. They are used for terrestrial and astronomical observation, such as viewing birds, spotting animals, or studying celestial bodies. Most of these telescopes are designed for recreational use, with the remainder for semiprofessional or professional applications. The primary components of an optical telescope are the tube, the eye piece, optical elements, and the mounting. The optical elements of the relatively inexpensive recreational or amateur-type telescopes are refracting lenses with limited focal power. Telescopes with greater focal power are primarily the reflecting types, made up of a combination of mirrors, or the catadioptric types, which use both mirrors and lenses.

According to industry sources, most of the imported telescopes are the amateur refracting types, whereas the U.S.-made telescopes are the reflecting and the catadioptric types and are used principally by professionals or semiprofessionals.

Sponsor's justification.—According to the sponsor's staff, the purpose of the legislation is to remove tariffs on particular imported telescopes to make a larger selection of good quality telescopes available at a lower cost; to remove the duty advantage on imports from Generalized System of Preferences (GSP) [4] beneficiary countries; and to achieve an equitable tariff rate for riflescopes, the duty rate on which was not staged during the Multilateral Trade Negotiations (MTN).[5]

Comparison with present law

Tariff treatment under the TSUS.—Prior to 1980, the articles currently classified under TSUS items 708.56 and 708.58 were all covered by item 708.53, dutiable at 20 percent ad valorem under column 1 and 45 percent ad valorem under column 2.

Since January 1, 1980, telescopic sights for rifles, not designed for use with infrared light, have been classified in TSUS item 708.56 and dutiable at 20 percent ad valorem under column 1 and 45 percent ad valorem under column 2; no LDDC duty rate was provided. The column 1 duty rate was not changed during the Tokyo round of the MTN and is scheduled to remain at 20 percent ad valorem (table 1).

Since January 1, 1980, other telescopes (telescopes, n.s.p.f., not designed for use with infra-red light) have been classified in item 708.58 dutiable at 11 percent ad valorem under column 1. This is the sixth stage of the duty reductions negotiated during the MTN; the rate will decrease annually to 8 percent ad valorem effective on January 1, 1987. The column 2 duty rate is 45 percent ad valorem, and the LDDC rate is 8 percent ad valorem.

The articles covered by items 708.56 and 708.58 are currently eligible for duty-free entry under the GSP and the Caribbean Basin Economic Recovery Act (CBERA) [6] if from beneficiary countries. The existing duty rates, the pre-MTN column 1 rate of duty, and the current GSP status for these tariff items are shown in table 1.

Tariff treatment under the proposed Harmonized System (HS).—Under the proposed conversion of the TSUS to the HS, riflescopes would be described as telescopic

---

[4] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[5] Based on information supplied by the sponsor's staff to the Commission staff.

[6] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

sights for rifles and provided for under commodity code number 9013.10.2000. The proposed column 1—general rate of duty is 20 percent ad valorem.

The subject telescopes would be described as optical telescopes and classified under HS commodity code number 9005.80.4000. The column 1—general rate of duty proposed to be effective upon implementation of the HS is 8 percent ad valorem.

TABLE 1.—TELESCOPIC SIGHTS FOR RIFLES, AND TELESCOPES, N.S.P.F., NOT DESIGNED FOR USE WITH INFRA-RED LIGHT: U.S. RATE OF DUTY, BY TSUS ITEMS

[Percent ad valorem]

TSUS item No.[1]	Description	Pre-MTN col. 1 rate of duty[2]	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
708.56A	Telescopic sights for rifles not designed for use with infra-red light.[3]	(4)									
708.58A	Telescopes, n.s.p.f. not designed for use with infra-red light.	(4)	18.5	17	15.5	14	12.5	11	9.5	8	45

[1] The designation "A" indicates that the item is currently disignated as an eligible article for futy-free treatment under the U.S. Generalized System of Preferences (GSP) and that all beneficiary developing countries are eligible for the GSP.

[2] Rate effective prior to Jan. 1, 1980.

[3] The duty rate for item 708.56 was not changed during the MTN.

[4] Prior to Jan. 1, 1980, the articles currently classified under items 708.56 and 708.58 were both classified under item 708.53, dutiable at 20 percent ad valorem under column 1, and 45 percent ad valorem under column 2.

Structure of the domestic industry

Riflescopes.—There are six known U.S. manufacturers of riflescopes, employing about 900 people. The U.S. producers manufacture a full line of riflescopes of varying quality and performance capabilities. In terms of value, the four largest companies produce about 95 percent of the riflescopes. The six manufacturers are as follows:

Leupold & Stevens, Inc.
P.O. Box 688
Beaverton, OR 97075

Burris Company
331 E. 8th St.
Greely, CO 80631

Redfield Company
5800 E. Jewell
Denver, CO 80224

Lyman Products
Route 147
Middlefield, CT 06450

Leatherwood Brothers
Route 1, Box 111
Stephenville, TX 76401

Unertl Company
3551-55 East St.
Pittsburgh, PA 15214

One major manufacturer of riflescopes, the W.E. Weaver Company in El Paso, Texas, went out of business in 1984.

The two largest manufacturers of riflescopes devote approximately 90 percent of their production operations to making riflescopes; the next two devote over 60 percent of their production to riflescopes. The remaining firms devote less than 30 percent of their production to reflescopes. The industry appears to be horizontally integrated.

Telescopes.—In the United States, seven manufacturers have been identified as producing terrestrial and astronomical telescopes. These firms employ about 275 people. The U.S. producers manufacture a wide variety of advanced telescopes with focal power in the upper ranges. Domestic producers also have the capability to design and manufacture large custom built astronomical telescopes. In terms of value, the first four of the following list of domestic manufacturers of telescopes produce about 90 percent of total U.S. output of telescopes other than large custom built telescopes.

Meade Instrument Corp.
1675 Toronto Way
Costa Mesa, CA 92626

Bausch & Lomb, Criterion Facilities
620 Oakwood Avenue
West Hartford, CT 06110

Questor
Box C, Department 10
New Hope, PA 18938

Celestron International
2945 Colombia St.
Torrance, CA 90503

Edmund Scientific
101 E. Glovcesler Pike
Barrington, NJ 08007

Perkin-Elmer Corp.
Applied Optics Division
7421 Orangewood Avenue
Garden Grove, CA 92641

L.F. Industries
211 Bolgrave
Huntington Park, CA 90255

Perkin-Elmer and L.F. Industries are prominent producers of custom-built large astronomical telescopes. In recent years the production of these large telescopes has not been significant.

Currently, only two U.S. manufacturers produce a relatively small number of recreational refracting type spotting telescopes that compete with the imported recreational telescopes.

The two largest manufacturers of telescopes devote over 90 percent of their production operations to the manufacture of telescopes. The next three devote from 30 to 60 percent of their production to telescopes and the final two less than 1 percent to making telescopes. The industry appears to be horizontally integrated.

Domestic production

Official data on domestic production of riflescopes and telescopes are not available. However, based on reports from industry sources, U.S. production of riflescopes is estimated at $50 million in 1980, $51 million in 1981, $55 million in 1982, $40 million in 1983, and $40 million in 1984. Production of telescopes is estimated at $18 million in 1980, $19 million in 1981, $20 million in 1982, $26 million in 1983, and $25 million in 1984. All major U.S. producers also export their products.

U.S. imports

The value of U.S. imports of riflescopes increased from about $12.6 million to about $17.4 million during 1980–84, or by about 38 percent (table 2). Japan and the Republic of Korea were the primary sources of riflescopes; in 1984 these countries' imports averaged 66 percent and 27 percent of the total, respectively. During 1980–84, U.S. imports of telescopes more than doubled from about $8.0 million in 1980 to $20.5 million in 1984 (table 3). Japan was consistently the primary source of telescopes; however, its share of the U.S. import market dropped from 94 percent to 86 percent from 1980 to 1984, while Korea's share increased from 0.3 percent to about 8 percent.

The largest importers of riflescopes are as follows:

Tanross Supply Co., Inc.
7600 N. W. 26th St.
Miami, FL 33122

Bausch & Lomb, Inc.
1400 N. Goodman St.
Rochester, NY 14602

Heckler & Koch, Inc.
933 Kenmore St., Suite #218
Arlington, VA 22201

K-Mart Corp.
3100 W. Big Beaver Road
Troy, MI 48084

Carl Zeiss Inc.
444 5th Avenue
New York, NY 10018

The largest importers of telescopes are as follows:

Tanross Supply Co., Inc.
7600 N. W. 26th St.
Miami, FL 33122

Bausch & Lomb, Inc.
1400 N. Goodman St.
Rochester, NY 14602

K-Mart Corp.
3100 W. Big Beaver Road
Troy, MI 48084

Omega Sports Division
Jason/Empire, Inc.
9200 Cody St.
Overland Park, KS 66214

Sears Roebuck & Co.
Olympic National Building
Suite 555
Seattle, WA 98104

Other importers of telescopes include Montgomery Ward in Chicago, Illinois; Swift, Inc. in Boston, Massachusetts; Simmons, Incorporated in Miami, Florida; and Compas in New York, New York.

Total GSP imports of riflescopes in 1984 were $4.7 million. The Republic of Korea (Korea) accounted for over 99 percent of these imports. Total GSP imports of telescopes amounted to $2.0 million in 1984. Korea was the leading source, accounting for 81 percent of the total ($1.6 million). There were no column 2 or CBERA imports of riflescopes or telescopes.

TABLE 2.—RIFLESCOPES: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

[In thousands of dollars]

Source	1980	1981	1982	1983	1984
Japan	10,496	10,210	9,858	10,088	11,470
Korea	1,807	4,101	4,367	4,940	4,759
West Germany	139	205	610	696	782
Austria	76	73	41	257	293
South Africa		24	42	68	61
Finland		24	21	4	39
Belgium	5	3	11		7
China		32	21	8	1
All other	32	132	17	50	5
Total	12,555	14,802	14,991	16,111	17,417

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 3.—TELESCOPES: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

[In thousands of dollars]

Source	1980	1981	1982	1983	1984
Japan	7,482	9,882	8,764	10,990	17,641
Korea	22	69	46	57	1,644
China	7	60	57	12	188
Hong Kong	167	64	159	178	175
United Kingdom	120	99	84	67	122
Austria	9	39	102	75	57
West Germany	118	36	96	251	45
Switzerland	16	79	48	13	26
All other	19	144	183	79	588
Total	7,960	10,472	9,539	11,722	20,486

Source: Compiled from official statistics of the U.S. Department of Commerce.

U.S. exports

U.S. exports of riflescopes decreased from about $1.2 million in 1980 to about $0.9 million in 1984 (table 4). U.S. exports of telescopes increased from about $9.1 million in 1980 to $12.7 million, or by about 40 percent (table 5). In 1984, the five largest markets were Israel, Singapore, Korea, the Federal Republic of Germany, and Canada; collectively these countries accounted for 73 percent of total U.S. exports.

Leupold & Stevens, Inc. and the Redfield Company, two major manufacturers of riflescopes, are also the principal U.S. exporters of riflescopes, according to industry sources. Meade Instrument coproration, Questor, Celestron, and Edmund Scientific are the principal U.S. exporters of telescopes.

Apparent U.S. consumption

Estimated apparent U.S. consumption of riflescopes decreased from $61 million in 1980 to $56 million in 1984, or by 8 percent (table 6). Estimated apparent consumption of telescopes rose form $17 million in 1980 to $33 milion in 1984, or by 95 percent (table 7).

Quantity data on consumption of both riflescopes and telescopes are not officially available since export data are not reported.

Effect on revenue

According to official 1984 statistics of the U.S. Department of Commerce, the duties collected on imported riflescopes amounted to $2.5 million and on imported telescopes to $2.3 million. Because it is believed that about 90 percent of the imports of these items would enter duty free under new TSUS items 708.53 and 708.57, the estimated revenue loss due to the enactment of the legislation would likely exceed $4.3 million.

TABLE 4.—RIFLESCOPES: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

[In thousands of dollars]

Market	1980	1981	1982	1983	1984
All countries	1,160	1,024	1,133	833	941

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 5.—RIFLESCOPES: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

[In thousands of dollars]

Market	1980	1981	1982	1983	1984
Israel	2,869	2,024	892	3,084	5,990
Singapore		50	10	715	1,907
Korea	168	577	41	1,702	728
West Germany	1,322	908	757	1,365	403
Canada	739	232	488	719	256
France	50	202	324	196	150
Pakistan			522		125
Mexico	241	291	309	52	50
All other	3,727	1,709	2,407	2,175	3,103
Total	9,116	5,993	5,750	10,008	12,712

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 6.—RIFLESCOPES: U.S. PRODUCERS' SHIPMENTS, EXPORTS OF DOMESTIC MERCHANDISE, IMPORTS FOR CONSUMPTION, AND APPARENT CONSUMPTION, 1980–84

[In thousands of dollars]

Year	Producers' shipments [1]	Exports	Imports	Apparent consumption	Ratio of imports to consumption
1980	50,000	1,160	12,555	61,395	20
1981	51,000	1,024	14,802	64,778	23
1982	55,000	1,133	14,991	68,858	22
1983	40,000	833	16,111	55,278	29
1984	40,000	941	17,417	56,476	31

[1] Estimated by the staff of the U.S. International Trade Commission.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

TABLE 7.—RIFLESCOPES: U.S. PRODUCERS' SHIPMENTS, EXPORTS OF DOMESTIC MERCHANDISE, IMPORTS FOR CONSUMPTION, AND APPARENT CONSUMPTION, 1980–84

[In thousands of dollars]

Year	Producers' shipments [1]	Exports	Imports	Apparent consumption	Ratio of imports to consumption
1980	18,000	9,116	7,960	16,844	47
1981	19,000	5,993	10,472	23,479	45
1982	20,000	5,750	9,539	23,789	40
1983	26,000	10,008	11,722	27,714	42
1984	25,000	12,712	20,486	32,774	63

[1] Estimated by the staff of the U.S. International Trade Commission.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

U.S. DEPARTMENT OF COMMERCE,
Washington DC, June 24, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on H.R. 1737, a bill "Relating to the tariff treatment of certain telescopes not designed for use with infra-red light."

The Department opposes enactment of H.R. 1737.

H.R. 1737 would eliminate the Column 1 (MFN) duty for riflescopes valued at less than $50 and for telescopes valued at less than $200. The MFN duties on riflescopes valued at more than $50 and on telescopes valued at more than $200, as well as the Column 2 (statutory) duties on these items, regardless of value, are unaffected by this legislation.

All riflescopes currently enter the United States under Tariff Schedules of the United States (TSUS) item 708.56 at a Column 1 tariff rate of 20 percent *ad valorem*. There was not duty reduction made on this item during the Tokyo Round of tariff negotiations. All telescopes currently enter the United States under TSUS item 708.58 at a Column 1 tariff rate of 11 percent *ad valorem*. As a result of concessions made in the Tokyo Round, the tariff for this item will be reduced in stages to 8 percent *ad valorem* by January 1, 1987. Both items are eligible for duty-free treatment under the U.S. Generalized System of Preferences (GSP).

We generally oppose unilateral tariff reductions when such reductions could affect the competitive posture of U.S. producers. In this instance, there is production in the United States for which there is strong foreign competition. Evidence of the extent of this competition is the fact that on February 25, 1981, the Department of Labor certified that foreign imports were an important cause of loss of jobs in the industry. Also, on March 31, 1983, the Department of Labor initiated another trade adjustment investigation for products covered by the proposed legislation.

In addition, we do not believe that present circumstances warrant the unilateral suspension of the duties as proposed by this bill without reciprocal benefits for U.S. exports. Japan is the major exporter of telescopes to the U.S, accounting for $29.1 million of total U.S. imports of $37.9 million in 1984. Japan's share of U.S. imports of these products declined from 88 percent in 1980 to 77 percent in 1984 as shipments increased from other countries benefiting from duty-free treatment under the GSP. A reduction in tariffs on these items would, therefore, constitute a concession to Japan with no reciprocal benefits to the United States.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS, *General Counsel.*

BAUSCH & LOMB,
Pasadena, CA, July 1, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, DC.

Attention: Joseph K. Dowley, Esq., Chief Counsel.

DEAR MR. CHAIRMAN: Bausch & Lomb Inc. would like to take this opportunity to express its stong support for H.R. 1737, relating to the tariff treatment of certain telescopes not designed for use with infrared light, introduced by Congressman Matsui.

Bausch & Lomb, Inc., through its Sports Optics Division, imports telescopic sights for rifles for sale in the United States. H.R. 1737 would remove the 20% duty, which now applies to various imported riflescopes.

It is our opinion that this import duty serves no purpose except to increase the price of these products to the American consumer. It is our understanding that, at this time, no U.S. companies manufacture riflescopes with entirely U.S. manufactured components. Thus, continued tariff protection would not benefit American industry.

We also understand that, given the relatively low volume of such products imported into the United States, the loss of revenue from repeal of this import duty would be insignificant.

Thank you for giving us the opportunity to comment on H.R. 1737.

Sincerely,

RANDY D. HOFFMAN, *President.*

NIXON, HARGRAVE, DEVANS & DOYLE,
Washington, DC, June 28, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, DC.

Attention: Joseph K. Dowley, Esq., Chief Counsel.

DEAR MR. CHAIRMAN: Our client, Bausch & Lomb, Inc., strongly supports H.R. 1737, relating to the tariff treatment of certain telescopes not designed for use with infra-red light, introduced by Congressman Matsui.

Bausch & Lomb, Inc., through its Bushnell Division, imports telescopic sights for rifles for sale in the United States. H.R. 1737 would remove the 20 percent duty which now applies to various imported rifle scopes.

It is the view of our client that this import duty serves no purpose except to increase the price of these products to the American consumer. It is our understanding that at this time no U.S. companies manufacture rifle scopes with entirely U.S.-manufactured components. Thus, continued tariff protection would not benefit American industry.

We also understand that, given the relatively low volume of such products imported into the United States, the loss of revenue from repeal of this import duty would be insignificant.

Thank you for giving us this opportunity to comment on H.R. 1737.

Sincerely,

STEPHEN KURZMAN, P.C.

BURRIS CO., INC.,
Greeley, Co., April 12, 1985.

Mr. DAN ROSTENKOWSKI,
Chairman: Ways and Means Committee, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. ROSTENKOWSKI: We recently learned of a bill presently before the House of Representatives, H.R. 1737 sponsored by Mr. Matsui, which would eliminate the import tariffs on telescopic rifle sights with a value under $50.00. We would like to ask your help in defeating this legislation.

The total telescopic rifle sight business is a small market in the United States (less than $100 million dollars) with only a handful of domestic manufacturers producing them. Under the provision of H.R. 1737 there would be no tariff on riflescopes under $50 in value; however, almost all the scopes imported from the Orient

have a value of less than $50. If the large number of sights which fall in the "under $50" range were given such a tremendous marketing advantage, all of the U.S. manufacturers would be severely damaged. I know our firm would suffer a sharp sales decline.

I would like to point out to you that similar action in the past has all but eliminated U.S. manufacturers of binoculars, spotting scopes, etc.

While the economic impact would not be felt in our nationwide economy, there would be ramifications that affect our national defense. Without an active optical sight manufacturing industry with engineering experience and operational ability to rapidly convert to the production of military sights, our nation would be at a disadvantage in the event of hostilities.

We feel that elimination of the present tariffs in time would lead to a sharp decline and quite possibly the end of optical sight manufacturing in this country.

A further consequence would be a reduction in optical research, further eroding our U.S. technological base.

For all of these reasons we ask your help in defeating this proposed change.

Sincerely,

DON J. BURRIS, *President.*

LEUPOLD & STEVENS, INC.,
Beaverton, OR, April 18, 1985.

DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Representatives, Longworth Building, Washington, DC.

DEAR CONGRESSMAN ROSTENKOWSKI: We are aware that the above subject bill is due to come up for consideration by your committee. This bill is essentially the same in working as a bill introduced in 1983 by one Mike Masaoka. That particular bill was H.R. 3174.

Our objection to this piece of proposed legislation has not changed. Our industry is not a large one, there could be less than 2500 involved in total. I speak here of 500+ employees at Leupold & Stevens plus all of our competitors (U.S. manufacturers) of like products; scope sighting equipment.

Imports have a profound effect on this limited market. It certainly is not to our benefit to increase the flow of imports to any segment of this market.

Yours for consideration,

Sincerely,

J. V. SLACK.
V. P. Marketing.

H.R. 1778

To suspend for 3 years the duty on 1,5-naphthalene diisocyanate

U.S. INTERNATIONAL TRADE COMMISSION

Section-by-section analysis

H.R. 1778,[1] if enacted, would temporarily suspend the column 1 rate of duty [2] for 1,5-naphthalene diisocyanate,[3] classified in item 405.82 of the Tariff Schedules of the United States (TSUS). The legislation would amend subpart B of part 2 [4] of the Appendix to the TSUS to add item 907.09 providing free entry for articles from countries entitled to most-favored nation (MFN) treatment until the close of the 3-year period beginning on the 15th day after the date of enactment. The column 2 [5] rate of duty would remain unchanged.

Section 2 of the bill states that the amendment made by this legislation shall be effective on or after the 15th day after the date of enactment of the bill.

Background

Description and uses.—The cyclic intermediate chemical, 1,5-naphthalenediisocyanate (NDI), is a solid with a light yellow to white color. It has a melting point of 127°C and is slightly toxic.

This compound is used primarily in the production of NDI-based polyurethane rubbers. These rubbers exhibit exceptional resistance to water and heat and are rapidly becoming the material of choice for front-end suspension systems incorporated into many new models of domestically assembled, front-wheel drive automobiles.

Purpose.—The proposed legislation would eliminate the present duty on NDI, which contributes to the direct production costs of NDI-based synthetic polyurethane rubbers. Only within the last few years have NDI-based synthetic rubbers found commercial use. These rubbers have been developed for use in high-performance, shock-absorbing member parts in the suspension systems of newly designed models of front-wheel drive vehicles. No other natural or synthetic rubber was found to perform as well as the NDI-based synthetics. Suspension of the duty on 1,5-naphthalenediisocyanate will enable the U.S. producers of the downstream products to provide a quality material that will permit the domestic automobile industry to compete more effectively with foreign imports.

Comparison with present law

Tariff treatment under the TSUS.—The chemical 1,5-naphthalenediisocyanate is classified in item 405.82, which provides for cyclic organic chemical products in any physical form having a benzenoid, quinoid, or modified benzenoid structure. The column 1 duty rate is presently 13.5 percent ad valorem. The column 2 duty rate is 7 cents per pound plus 52 percent ad valorem. No separate rate is provided for least

---

[1] A companion bill, S. 851, 99th Congress, is currently pending before the Senate Finance Committee.

[2] The rate of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[3] The correct spelling of this chemical is "1,5-naphthalenediisocyanate". (See *Technical comments* section of this report.)

[4] The reference should be to part 1 of the Appendix. (See *Technical comments* section of this report.)

[5] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

developed developing countries (LDDCs).[6] Articles imported under item 405.82 are not eligible for the Generalized System of Preferences (GSP).[7] However, articles produced in eligible Caribbean countries may qualify for the Caribbean Basin Economic Recovery Act (CBERA).[8]

Prior to the Trade Agreements Act of 1979 NDI was classified under item 403.60 at a column 1 rate of duty of 1.7 cents per pound plus 12.5 percent ad valorem. Effectively July 1, 1980, the present TSUS item and column 1 duty rate were established. No staged duty reductions were negotiated with respect to this item in the Tokyo round of Multilateral Trade Negotiations (MTN).

Tariff treatment under the proposed Harmonized System.[9]—The Harmonized System (HS) commodity code number for NDI is 2929.90.10.[10] The product is described as an isocyanate. The column 1 duty rate effective upon implementation of the HS will be 13.5 percent ad valorem.

Structure of the domestic industry

The subject material, 1,5-naphthalenediisocyanate, is not produced in the United States. Commercial use of this chemical began only within the past two years.

Domestic production

Commercial production of 1,5-naphthalenediisocynate has never been established in the United States.

U.S. imports

The quantity or value of 1,5-naphthalenediisocyanate imports appears neither in Commission records nor in U.S. Bureau of the Census date. Industry sources estimate that less than 70,000 pounds, valued at approximately $455,000, were imported in 1984. One industry source estimates that imports of NDI in 1985 will be at least double the 1984 quantity.

U.S. exports

U.S. export data for 1,5-naphthalenediisocyanate are not available as this chemical is classified in a residual (basket) Schedule B number.

Apparent U.S. consumption

Data for domestic consumption of this chemical are not available. However, industry sources indicate that domestic consumption in 1984 was essentially the same as imports.

Effect on revenue

Based on industry sources, the following are the estimated revenue losses for the three-year period from 1986 through 1988, which are expected to result from enactment of this legislation:

---

[6] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies

[7] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[8] The CBERA affords nonreciprocal traffid preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible article imported directly from designated Basin countries.

[9] The Harmonized System is intended to serve as the single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

[10] Source: Trade Policy Staff Committee, *Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System* (September 1984).

Estimated revenue loss

Year:	*Thousands*
1986	$135
1987	149
1988	164

Technical comments

The language "(19 U.S.C. 1202)" should be inserted immediately following "United States" in line 4 on page 1 of the bill.

We suggest using the TSUS number 907.07 because it would better maintain the proper number sequence in the Appendix. The correct spelling of the chemical name, "1,5-naphthalenediisocyanate", should be used in the article description in the bill.

We suggest using the TSUS number 907.07 because 907.09 has been used in previous legislation. The correct name for the chemical, "1,5-naphthalenediisocyanate" should be used in the article discription. Finally, we suggest that the effective period column be amended to refer to a date certain, e.g., "On or before 12/31/88".

U.S. DEPARTMENT OF COMMERCE,
Washington, DC, June 25, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in response to your request for the views of this Department on H.R. 1778, a bill "To suspend for 3 years the duty on 1,5 naphthalene diisocyanate."

The Department has no objection to the enactment of H.R. 1778.

H.R. 1778 would suspend for three years the column 1 (MFN) duty on imports of 1,5 naphthalene diisocyanate. The column 2 (statutory) rate of duty would be unaffected by this legislation. This chemical presently enters the United States under Tariff Schedules of the United States (TSUS) item 405.82, with a column 1 rate of 13.5 percent *ad volorem*. No concessions were made on this item during the Tokyo Round of trade negotiations. This chemical is not eligible for duty-free treatment under the U.S. Generalized System of Preferences.

Enactment of H.R. 1778 would not have an adverse effect on domestic industries. This chemical is not produced in the United States.

We estimate the loss in revenue, as a result of the passage of this bill, at $160,000. Enactment of this legislation would have no effect on the revenues or the administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely

DOUGLAS A. RIGGS, *General Counsel.*

STATEMENT OF PAUL G. GEMEINHARDT, DIRECTOR, COMMUNICATIONS AND ADVOCACY FOR CHEMICAL INDUSTRY ISSUES, MOBAY CHEMICAL CORP.

Summary

Mobay Chemical Corporation urges a favorable vote on H.R. 1778 that proposes a three year suspension of duty on imports of 1,5-naphthalene diisocyanate (NDI) because:

American industry will not be harmed by suspending the duty on imported NDI since there are no U.S. producers;

The suspension of duty will make NDI even more attractive to developing commercial users of this versatile chemical raw material because of lower costs;

A unique character of downstream materials produced from NDI is helping the U.S. automotive industry to compete within its own market against foreign imports; and

The lower cost of NDI resulting from a duty suspension would provide additional incentive for continuing end use research that could lead to broader areas of use in the consumer products market, in industrial markets and the military.

Statement

Mobay Chemical Corporation, whose parent is Bayer AG of Leverkusen, Germany, is headquartered in Pittsburgh, PA. Since its formation in the early 1950's, Mobay has become a diversified manufacturer of chemical intermediates and polymeric resins, supplying products to broad areas of U.S. industry having need for polyurethane raw materials and polymers, agricultural chemicals, dyestuffs, pigments, plastics, coating ingredients, and textile fibers.

Mobay currently imports NDI from its parent company Bayer AG, of West Germany. Bayer is one of only two companies throughout the world that manufacturers the chemical. There are no producers in the United States.

For years, Mobay has offered NDI to the American market through its Polyurethane Division under the tradename MONDUR 15. Because there were no commercial applications during this period, the ecomonic impact of the high tariff (13.5% ad valorem) has been negligible. NDI was used solely in research and development work.

For sometime, it has been known that NDI can be used as precursor in the formation of high strength synthetic rubbers that also exhibit exceptional resistance to water and heat. Only within the last 2-3 years, however, have such downstream materials, made with NDI, found commercial utilization.

In the U.S. automobile industry's quest for smaller, lighter weight and fuel efficient automobiles, interest peaked in the kinds of rubbers made possible with NDI. A need developed for high performance shock absorbing member parts in the suspension systems of newly designed models of front-wheel drive vehicles. That need was satisfied with rubber parts made form NDI. No other natural or synthetic rubber was found to perform as well in this demanding application. In addition to satisfying the high performance requirements of the application, the use of NDI-based rubbers allowed for a significant reduction in the size and weight of the front-end assembly. This contributed to the car's overall smaller size and lower weight resulting in lower cost and more fuel efficient operation for the end-user.

NDI-based rubbers are being used commerically in the front-end suspension systems of many new models of domestically assembled front-wheel drive automobiles. With such models, the domestic auto industry is again becoming competitive within its own market against foreign imports. At a time when worldwide competitive forces continue to push our industries even harder to produce quality products in an efficient and cost effective manner, it seems ill-advised to impose additional burden on manufacturers and the consuming public by taxing products such as NDI.

Because of the growing popularity of these front-wheel drive cars, as manufactured in the U.S., demand for NDI-based rubbers is on the rise and thus, NDI as well. In 1985, Mobay expects to import about 200,000 lbs. of NDI which is one-tenth of the estimated annual consumption foreseen when demand peaks. At the prevailing price and tariff, importing two million pounds of NDI would cost the consumer over one million dollars; a cost the consumer would be spared by the requested suspension of duty.

Suspending the duty of NDI would also make the corresponding rubber products more cost attractive for protentially new applications. One of these involves an interest by the U.S. Military. In a continuing search for improved materials on equipment used for our national defense, the Military is evaluating rubbers made from NDI as track treads for the M-1 and M-60 tanks. The testing of NDI based rubber treads is underway at the Yuma, Arizona testing grounds under the supervision of the Motorized Vehicle Command. Tests are expected to be completed in about five months.

NDI is a solid material under ambient conditions and is packaged as a cystalline solid for sales. Its high melting point (127°C/260.6°F) and even higher boiling point (263°C/505°F) makes it particulary safe for handling, transporting and use in downstream processing.

Mobay strongly supports H.R. 1778 that proposes a temporary, three years, suspension of duty on NDI, and urges the Committee to pass on the bill.

If futher communication is needed on this matter, please contact P. G. Gemeinhardt or Mr. Don Birnie (Tel. No. 412/777-2635).

STATEMENT OF ANDREW P. VANCE AND MATTHEW T. MCGRATH, COUNSELS, UNIROYAL CHEMICAL DIVISION, UNIROYAL, INC.

Summary

(1) The bill would suspend the tariff on 1,5 naphthalene diisocyanate (NDI), a chemical used in polyurethane elastomers. NDI is directly competitive with polyure-

thane prepolymers terminated with toluene diisocyanate and diphenylmethylene diisocyantate, which are marketed by Uniroyal and other U.S. chemical and chemical intermediate producers.

(2) The duty-free NDI would affect prices and sales of domestically manufactured prepolymer systems to polyurethane parts manufacturers, particularly in certain automotive applications.

(3) Maintenance of the current, negotiated tariff rate is important to U.S. producers in maintaining their competitiveness in the important U.S. prepolymer markets.

(4) The suspension of the duty on a product which is directly competitive with domestically produced chemical intermediates should not be enacted without substantially equivalent tariff concessions being offered by the producing country.

STATEMENT

This statement is submitted on behalf of Uniroyal Chemical Division of Uniroyal, Inc., in response to the invitation for comments of the Subcommittee on Trade, Committee on Ways and Means (Release No. 8, May 16, 1985) concerning certain tariff and trade bills. Uniroyal notes its opposition to H.R. 1778, a bill to suspend for three years the duty on 1,5 naphthalene diisocyanate, also known as "NDI". Uniroyal, a U.S. producer of chemicals and chemical systems, including polyurethane elastomer systems, believes that the implementation of a duty suspension for this chemical would adversely affect U.S. producers of chemicals and chemical systems which compete in the marketplace for sales to producers of the same end products, namely "jounce bumpers" and other plastic parts used in automotive applications. Therefore, the intended duty rate for this article should remain in effect, pursuant to bound tariff concessions under the General Agreement on Tariffs and Trade.

The product and its uses

NDI is used as a basic chemical component of polyurethane elastomers. It must normally be used in conjunction with a polyol and a chain extender to produce a polyurethane system, which is then used in producing polyurethane materials. The chemical system can be produced using either N.D.I., toluene diisocyanate (TDI), or diphenylmethylene diisocyanate (MDI) as the diisocyanate component. These systems may be used by a parts manufacturer in a number of applications, including automotive and engineering equipment, textiles, electrical equipment, and the construction industry. The characteristics imparted by these polyurethane systems which are important in their various applications include modulus, elasticity, mechanical load stability, abrasion resistance, and resistance to heat buildup. Among the more recent applications developed for which polyurethane systems terminated with NDI, TDI, or MDI is useful, is so-called "jounce" bumpers or strut-type shock absorbers for vehicles. The deflection characteristics of these urethane systems make them suitable for this recently developed market, and it is expected that jounce bumpers made principally by auto parts manufacturers, will represent a growing market segment for elastomers in the next several years.

NDI, which is the subject of H.R. 1778, is apparently imported only from Germany, and is sold in the United States to polyurethane producers who combine it with polyols and chain extenders to produce chemical systems. Uniroyal markets polyurethane prepolymers which use either TDI or MDI as the basic isocyanate, rather than selling the TDI or MDI separately. Other U.S. producers manufacture only these chemicals. Thus, the urethane producer/end-user may either purchase diisocyanate and incorporate it into its own chemical system, or purchase a system of which the diisocyanate is a terminate. To this extent, NDI sold separately competes with systems based on TDI or MDI, depending on whether a purchaser chooses to combine the diisocyanate with polyols and chain extenders themselves, or purchase the prepolymer system.

A duty suspension on NDI would adversely affect U.S. producers

Uniroyal is a producer of urethane systems, and as such, purchases the TDI or MDI from other chemical manufacturers. Upjohn, Rubicon, Union Carbide, and Olin are all domestic concerns which sell either the diisocyanate itself, or urethane systems using diisocyanates.

NDI is not currently produced in the United States, and Uniroyal believes the chemical is imported only from Germany. The tariff currently assessed on NDI under TSUS item 405.82 permits U.S. producers of urethane intermediates which serve the same markets to remain competitive. However, the suspension of this duty would affect U.S. prices for NDI and, derivatively, lower the price for systems based on NDI, thus making it more difficult for U.S. produced TDI- and MDI-terminated systems to compete. Uniroyal is not aware of any applications for NDI in urethane

elastomers which are not also served by TDI and MDI based systems. NDI is still available to the chemical intermediate producers and end-users who perceive its performance characteristics to be preferable, in some manner, for their individual specifications, and the existence of the present tariff does not make its use prohibitive. Suspension of the tariff could undermine the competitive balance which Uniroyal believes to exist in this market, and erode sales of domestically-manufactured TDI and MDI-based systems. Furthermore, although domestic production is basically capital-intensive, a decline in sales could also affect U.S. employment levels. Uniroyal does not object to competing with NDI in these markets, but the suspension of the tariff, without equivalent tariff concessions for U.S. exports to the European Communities, would place U.S. elastomer system producers at a competitive disadvantage which U.S. negotiators intended to prevent when the current tariff structure was agreed upon.

For the foregoing reasons, Uniroyal opposes the proposed suspension of duties on imports of 1,5 naphthalene diisocyanate, classified under TSUS item 405.82, and believes that the current, negotiated tariff for this product, which is a part of overall tariff concessions on chemicals resulting from the Tokyo Round of negotiations under the General Agreement on Tariffs and Trade, should remain in effect.

H.R. 1849

To extend for 5 years the existing temporary duty-free treatment of machines designed for heat-set, stretch texturing of continuous man-made fibers

U.S. International Trade Commission

Section-by-section analysis

H.R. 1849, if enacted would extend the existing temporary duty-free treatment applied to column 1[1] imports of machines designed for heat-set, stretch texturing of continuous manmade fibers until December 31, 1990. These articles are currently accorded duty-free treatment, until December 31, 1985, under item 912.07 of the Appendix to the Tariff Schedules of the United States (TSUS). Section 2 of the bill states that it would be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after December 31, 1985.

Background

Description and uses.—Texturing is the process of crimping, imparting random loops, or otherwise modifying continuous filament yarn to increase cover, resilience, abrasion resistance, warmth, insulation, moisture absorption, or to provide a different surface texture. The stretch/heat-set machinery that would be affected by this proposed legislation uses a "false-twist" method for texturing.

The false-twist method involves stretching, twisting, heat-setting, and untwisting of the yarn. Continuous multifilament yarn is taken from a supply package and fed at controlled tension (stretched) through a heating unit and against a series of rollers turning in different directions to impart a twist. Above the rollers the tension in the yarn is released, allowing it to contract partially and untwist. The result is a bulkier, more elastic yarn.

This process using stretching and heat-setting is the only known false-twist method. During 1974-75, the use of rollers in the step of the process where the twist is imparted—a technique known as friction-twisting—replaced an earlier technology called "pin-twisting." In recent years, the versatility and speed of false-twist machines have resulted in dominance of these machines in the texturing machines market. According to a 1978 survey, 94 percent of the texturing machinery in place at that time (measured in thousands of spindles) was of the false-twist type. Since 1978, nearly all of the machines using other methods (gear crimping, edge crimping, knit-de-knit, and stuffer box) have been replaced by false-twist machines. The only other texturing method, the air-jet method, is currently in use by only one company and only used in making very heavy yarns (up to 1,000 denier for carpets and sails). Air-jet machines are not used in the manufacture of the 40 to 250 denier yarns which are the products of false-twist machines.

Purpose.—This bill was introduced on behalf of the members of the American Yarn Spinners Association to extend the existing duty-free treatment for this merchandise. Duty-free treatment under item 912.07 was originally granted principally because the U.S. yarn industry was unable to locate a domestic company that manufactured machines designed for heat-set, stretch texturing of continuous manmade fibers.

Comparison with present law

Tariff Treatment under the TSUS.—Machines for stretch/heat-set texturing of continuous manmade fibers are provided for in TSUS item 670.06. This provision

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

includes all machines used to prepare natural or manmade fibers for spinning, stuffing, or the manufacture of nonwoven felts or wadding, except those specially designed for vegetable fibers or wool. The column 1 rate of duty for TSUS item 670.06 is 4.7 percent ad volorem.[2] The rate for least developed developing countries (LDDCs)[3] is 4.2 percent ad valorem. The column 2 rate of duty[4] is 40 percent ad valorem. Imports from designated beneficiary countries may qualify for duty-free treatment under the Generalized System of Preferences (GSP).[5] Articles from beneficiary Caribbean countries may qualify for duty-free entry under the Caribbean Basin Economic Recovery Act (CBERA).[6]

The following staged rate reductions were negotiated for item 670.06 in the Tokyo round of Multilateral Trade Negotiations (MTN):

Column 1 rate of duty effective on or after January 1

Year:	
Pre-MTN [1]	6% ad val.
1980	5.8% ad val.
1981	5.6% ad val.
1982	5.3% ad val.
1983	5.1% ad val.
1984	4.9% ad val.
1985	4.7% ad val.
1986	4.4% ad val.
1987	4.2% ad val.

[1] Rate applicable prior to January 1, 1980.

Tariff treatment under the proposed Harmonized System (HS).[7]—Machines designed for heat-set, stretch texturing of continuous manmade fibers are provided for under the proposed Harmonized System (HS) in item 8445.19.00.[8] The column 1 rate of duty which would be effective upon implementation of the HS is 4.2 percent ad valorem.

Structure of the domestic industry

During the period 1974–83 U.S. firms did not produce heat-set, stretch texturing machines for general consumption. Two domestic companies have begun production of these machines since 1984. Enterprise Machinery & Development Co., located in New Castle, Del., produces heat-set and air-jet machines, and Thieler Corp. International (TCI) of Gastonia, N.C. reportedly produces a range of heat-set texturing machinery. Prior to 1983, TCI (also known as Chevis Textiles) produced machinery and parts exclusively for one manufacturer. According to TCI officials, domestic sales of

---

[2] The articles are currently duty-free pursuant to item 912.07 of the appendix to the TSUS.

[3] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[4] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[5] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[6] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[7] The Harmonized System is intended to serve as the single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

[8] Source: Trade Policy Staff Committee, *Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System* (September 1984).

these products ranged between $1 and $2 million during 1984. Sales data for Enterprise Machinery & Development Co. are not available.

U.S. imports

According to officials of the U.S. Customs Service, imports of machinery for stretch/heat-set texturing of continuous manmade fibers are entered under TSUSA item 670.0660, which covers textile machines, other than spinning or twisting machines, used to prepare natural or manmade fibers for spinning, except those specially designed for vegetable fibers or wool. The number of imports under this TSUSA item that is attributable to imports of machinery for stretch/heat-set texturing of continuous manmade fibers is unknown. Recent U.S. imports entered under TSUSA item 670.0660 are as follows:

Period	Quantity (units)	Value (1,000 dollars)
1980	1,085	38,265
1981	1,324	45,393
1982	900	42,071
1983	1,770	49,966
1984	1,489	60,806
Jan.–Mar.—1985	87	4,206

In 1984 the principal source of U.S. imports of these machines was West Germany (accounting for 61 percent of the value of total imports), followed by France (representing 13 percent of total imports). The major West German exporter to the United States was Barmag. ARCT of France is also an important supplier of these machines. There were no known imports of stretch/heat-set texturing machines from column 2 countries or from countries eligible for the GSP.

U.S. exports

There were no U.S. exports of machines designed for stretch/heat-set texturing of continuous manmade fibers during the period January 1980–March 1985.

Apparent U.S. consumption

Since there was no U.S. production of the subject machines in 1980–83, apparent U.S. consumption during those years is presumed to have been approximately equal to imports.

Effect of revenue

If this legislation were enacted the average annual customs revenue loss that would result would be approximately $2.6 million. This estimate is based on 1984 import levels and on the staged reductions of the tariff rates scheduled for 1985–90. Estimated annual customs revenue losses during 1985–90 would be as follows:

Item 670.0660

Year:	*(1,000 dollars)*
1985	$2,858
1986	2,676
1987	2,554
1988	2,554
1989	2,554
1990	2,554

Technical comments

The language "on or" in line 8 of the bill is unnecessary as the present duty suspension extends through December 31, 1985.

U.S. DEPARTMENT OF COMMERCE,
Washington, DC, July 15, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on H.R. 1849, a bill "To extend for five years the existing temporary duty-

free treatment of machines designed for heat-set, stretch texturing of continuous man-made fibers."

The Department of Commerce has no objection to enactment of H.R. 1849.

H.R. 1849 would extend through December 31, 1990, the current suspension of the column 1 (MFN) duty on machines designed for heat-set, stretch texturing of continuous man-made fibers. The column 2 (statutory) rate of duty would remain unaffected by this legislation.

In the absence of the duty suspension, machines designed for heat-set, stretch texturing of continuous man-made fibers would be imported under Tariff Schedules of the United States (TSUS) item 670.06 at a MFN duty of 4.7 percent *ad valorem*. As a result of concessions made during the Tokyo Round of Multilateral Trade Negotiations, this duty will be reduced in stages to 4.2 percent *ad valorem* by January 1, 1987. Machines designed for heat-set stretch texturing of continuous man-made fibers are eligible for duty-free treatment under the U.S. Generalized System of Preferences.

Enactment of H.R. 1849 is not likely to have an adverse impact on domestic producers of a competitive product. Two domestic producers of texturing machinery originally told the Department that they were offering for sale machinery covered by this legislation. We understand that they now think that the machinery they sell is *not* covered by this legislation and have written to Chairman Gibbons to confirm this. Based on this reversal of their advice, the Department believes that heat-set, stretch texturing machinery, which produces a false twist yarn, does not compete with the air-jet texturing machinery produced domestically.

We are unable to calculate the revenue effect of H.R. 1849. U.S. trade statistics do not report separately imports of machines designed for heat-set, stretch texturing of continuous man-made fibers. Enactment of H.R. 1849 would have no effect on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS, *General Counsel.*

THE AMERICAN YARN SPINNERS ASSOCIATION, INC.,
Gastonia, NC, June 26, 1985.

Re: H.R. 1849.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. DOWLEY: Attached is the statement of the Association of Synthetic Yarn Manufacturers, Inc. in support of H.R. 1849, which would extend for five years the existing temporary duty-free treatment of machines designed for heat-set, stretch texturing of continuous man-made fibers.

It has come to our attention that the Department of Commerce claims to have identified two domestic companies which produce a type of texturing machine. These companies are: Enterprise Machine and Development Corporation of New Castle, Delaware, and Theiler Corporation International, and H. J. Theiler Company, of Gastonia, N.C. and Spartansburg, S.C. We are familiar with the machines produced by these firms and have discussed the matter with them.

Both of these firms produce "air-texturing" machines, which are distinctly different from the "false-twist" machines covered by the definition in H.R. 1849. This is confirmed by the attached letter from Mr. Samuel T. Price, chairman of the board of Enterprise Machine and Development Corporation. It is our understanding that a similar letter, dated June 21, 1985, has been submitted by Mr. William Lewis of the H. J. Theiler Company.

In any event, we are prepared to discuss the technical differences between the two types of machines, as well as the differences in the yarns they produce, should this be of interest at the time the public hearings are scheduled.

We are grateful for this opportunity to present the enclosed statement in support of H.R. 1849.

Sincerely,

JIM H. CONNER,
Executive Vice President.

STATEMENT OF ASSOCIATION OF SYNETHETIC YARN MANUFACTURERS, INC.

This statement is presented on behalf of the Association of Synthetic Yarn Manufacturers, Inc. in support of H.R. 1849, which provides for a five-year extension of the existing temporary duty-free treatment of machines designed for heat-set, stretch texturing of continuous man-made fibers. The Association's membership is composed of firms who texture filament yarns for the production of knit and woven fabrics consumed in apparel and home furnishings. Member firms operate manufacturing facilities in ten states along the eastern seaboard from Rhode Island to South Carolina.

As pointed out in testimony presented when the original temporary duty-free legislation was introduced in 1982, yarn texturing technology has moved faster than in any other area of textile production. From 1955 to date, texturing productivity has risen twenty fold from 0.132 pounds per spindle hour to 2.644 pounds per spindle hour. Stated another way, a 216 spindle machine in 1955 could produce 3,193 pounds of 100 denier textured polyester per week, as compared with today's 216 spindle machines which have the capability of producing 63,975 pounds per week.

In our 1982 statement, we illustrated how investment in the new technology during the mid-1970's had enabled the U.S. textured yarn industry to reverse a substantial trade deficit in textured yarns and turn that deficit into a 305 million pound export surplus valued at some $400 million since 1981. Since 1981, as shown in the attached Exhibit I, textured yarn exports have declined by approximately 200 million pounds, while imports have risen by roughly 50 million pounds. Nonetheless, on a poundage basis, we still have a surplus on the order of 2 pounds exported for every pound imported. The decline in the textured yarn trade surplus since 1981 is attributed to two fundamental factors: the strength of the U.S. dollar and the upgrading of technology in other countries.

For U.S. firms to remain competitive in the current world market situation, it is essential that investment in the latest technology be continued. Since the type of hi-tech machines described in H.R. 1849 are only available from Europe, we have no other alternative source for this equipment.

The U.S. textured yarn industry has maintained its commitment to being internationally competitive by continuing to invest in new technology. Since the begining of 1983, U.S. texturizers have purchased over 100 of the newer 1200 meter per minute false twist machines at a cost of approximately $500,000 each, for a total investment of some $50 million. Because of the high interest rates in the United States as compared with those paid by our foreign counterparts, the duty savings now in effect has been a significant factor in equalizing the investment costs between United States and foreign producers.

Over the last three years, Taiwan, Korea, and the Peoples Republic of China have begun installing the same or similar machines to those being installed in the United States. Needless to say, this has already added a new dimension to international and domestic competition. Failure to continue U.S. investment in the newer technology will jeopardize the jobs of U.S. workers in the textured yarn segment of the textile industry, as well as those in the fiber-producing industry.

In conclusion, it is our belief that the total contribution to the U.S. economy and the Federal and State tax base far outweighs the tariff that would otherwise be collected if the current duty-free treatment is not extended. Therefore, we support H.R. 1849 and urge that it be given favorable consideration by the Subcommittee on Trade, Committee on Ways and Means. Furthermore, we are grateful for this opportunity to present our views on this matter to the committee.

[Exhibit]

U.S. TRADE IN TEXTURED MAN-MADE FIBER YARNS, 1970–84

[Pounds in thousands]

	Imports [1]	Exports
Year:		
1970	77,892	NA
1971	145,087	NA
1972	126,640	NA
1973	100,271	39,515
1974	41,890	57,117
1975	30,999	53,505
1976	30,841	49,123

U.S. TRADE IN TEXTURED MAN-MADE FIBER YARNS, 1970–84—Continued

[Pounds in thousands]

	Imports [1]	Exports
1977	48,399	56,592
1978	21,099	56,439
1979	11,979	143,825
1980	9,062	190,273
1981	12,174	317,860
1982	18,632	238,418
1983	27,958	116,918
1984	60,289	119,824

[1] Includes some nontextured spun yarns covered in category 600 of the U.S. Department of Commerce correlation of textile products to the T.S.U.S.A.

ENTERPRISE MACHINE AND DEVELOPMENT CORP.,
New Castle, DE, May 20, 1985.

Hon. SAM GIBBONS,
Chairman, Ways and Means Trade Subcommittee,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN GIBBONS: This is to advise that Enterprise Machine and Development Corporation does not produce texturing machines of the type identified in T.S.U.S.A. 912.07 and described as follows:

"Machines designed for heat-set, stretch texturing of continuous man-made fibers (provided for in item 670.06, part 4E, schedule 6)"

We understand that legislation has been introduced which would extend duty-free treatment on machines specifically described above, and we are not opposed to this legislation.

Best regards.

Sincerely,

SAMUEL T. PRICE, *Chairman.*

H.J. THEILER CORP.,
Spartanburg, SC, June 25, 1985.

Hon. SAM GIBBONS,
Chairman, Ways and Means Trade Subcommittee,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN GIBBONS: This is to advise that H.J. Theiler Corporation does not produce texturing machines of the type identified in T.S.U.S.A. 912.07 and described as follows:

"Machines designed for heat-set, stretch texturing of continuous man-made fibers (provided for in item 670.06, part 4E, schedule 6)"

We understand that legislation has been introduced which would extend duty-free treatment on machines specifically described above, and we are not opposed to this legislation.

Best regards.

Sincerely,

H. PETER THEILER, *Vice President.*

H.R. 1905

To offset the competitive advantage which foreign coal producers have as a result of not having to meet environmental, health, welfare and safety requirements of the kinds imposed on U.S. coal producers, and for other purposes

See statement of American Federation of Labor and Congress of Industrial Organizations under H.R. 821.

Department of the Treasury

This is a report expressing the views of the Department of the Treasury on H.R. 1905, the "Coal Trade Equalization Act of 1985." The bill would require the Secretary of the Interior to investigate the relationships between coal imports, the management of Federal coal leasing programs and the economic condition of the United States coal industry. If the investigation indicates that imports are adversely affecting the U.S. coal industry, import tariffs on coal would be imposed to offset the price differential, caused by environmental and health controls on U.S. coal mining operations, between domestic and foreign coal.

The Department of the Treasury opposes the enactment of H.R. 1905 for the following reasons:

If the proposed investigation finds a cost differential between imported and domestic coal, the bill would raise the price of imported coal, thereby increasing the cost of products for which coal is an input and causing economic hardship on those dependent upon coal and its by-products. One industry that would suffer greatly is the electricity generation industry, which depends heavily on coal. Clearly, there are secondary and tertiary adverse effects from the higher electricity prices. Furthermore, by increasing the price of coal, consumers would substitute alternative fuels which would become cheaper relative to the price of coal. Thus, on economic grounds H.R. 1905 is highly objectionable.

International price differentials in coal, as with other goods, generally reflect differences in comparative advantages in production. Differences in environmental costs may reflect different environmental standards, or differences in the efficiency of achieving them. Reducing the cost of achieving U.S. environmental standards and, thereby, increasing the competitiveness of U.S. coal producers is far more desirable than raising the cost of imports.

Finally, the imposition of a large unilateral tariff on coal would violate our international obligations under the GATT. Because the bill calls for country-specific tariff treatment for coal imports, it would violate the most-favored-nation basis of our current international trade scheme.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Department of Commerce

This will respond to your request for the views of this Department on H.R. 1905, a bill

"To offset the competitive advantage which foreign coal producers have as a result of not having to meet environmental, health, welfare, and safety requirements of the kinds imposed on United States coal producers, and for other purposes."

The Department of Commerce opposes enactment of H.R. 1905.

H.R. 1905, as reported by the House Interior and Insular Affairs Committee on May 15, 1985 (H.R. Rep. No. 99-117), would impose a duty of $8.00 per ton on most imported coal. Exempt from this duty would be coal imported from countries that historically are net importers of United States coal (such as Canada), and coal imported from Colombia into Puerto Rico. The stated purpose of H.R. 1905 is to com-

pensate in trade terms for the expenses incurred by domestic coal producers in meeting government-imposed "environmental, health, welfare and safety requirements."

Coal presently enters the United States free of duty under Tariff Schedules of the United States (TSUS) item number 521.31. H.R. 1905 would delete item 521.31 and create two new TSUS classifications: item 521.32, coal that is the product of a country determined by the Secretary of Commerce to be a historical importer of more coal from the United States than it exports to the United States; and item 521.34, other coal. Item 521.32 would continue to enter free of duty; item 521.34 would enter with a duty of $8.00 per ton. H.R. 1905 would also add a headnote to the TSUS which provides that coal imported from Colombia and entered in Puerto Rico shall be classified under item 521.31, thus in effect permitting duty-free entry into the United States of this coal.

Coal of all classifications is bound at "free" in the United States schedule of concessions to the General Agreement on Tariffs and Trade (GATT) Schedule XX. Establishing duties on coal of $8.00 per ton, as provided by H.R. 1905, would violate the obligation of the United States, under the Article II of the GATT, not to raise duties bound against increase. Such a violation might, in turn, result in demands for compensation, pursuant to Articles II(5) and XXIII(1), by our GATT trading partners. To the extent that compensation is not accorded by the United States, the affected countries may seek authorization from the GATT, under Article XXII(2), to take retaliatory action with respect to a comparable value of United States trade.

Enactment of H.R. 1905 would also violate the unconditional most-favored-nation obligation undertaken by the United States under Article I of the GATT, by discriminating among our trading partners on the basis of their coal trade with the United States. Although the GATT provides for certain exceptions to most-favored-nations treatment, this legislation does not appear to fall within any of these exceptions. Accordingly, if additional duties were imposed pursuant to this legislation, countries so discriminated against would be authorized under the GATT to seek to retaliate against, or demand compensation from, the United States.

Under section 201 of the Trade Act of 1974, domestic industries that believe they have been injured or threatened with injury by rising imports may petition the United States International Trade Commission (ITC) for relief. A recommendation by the ITC that relief be granted under section 201 must be based upon a finding of serious injury or threat thereof to the affected industry, and is thus consistent with our international obligations under the GATT. Where unfair foreign trade practices are thought to be involved, we believe that the antidumping and countervailing duty laws administered by this Department and the ITC provide adequate procedures for relief from such practices. Under these laws, additional duties may be imposed on imported products if they are being unfairly subsidized or offered for sale in the United States at less than fair value.

Environmental, health, welfare and safety standards exist with varying degrees in all major coal exporting countries. The stringency of such standards, and the costs incurred in meeting them, are matters of national choice and policy. Offsetting such costs for coal may set an unwise precedent for the imposition of duties on any product or commodities as to which regulatory costs are domestically incurred. In this connection, we note that it is not clear that differences in regulatory compliance costs account for the bulk of the price differential between United States and foreign coals.

Had the provisions of H.R. 1905 been in effect during 1984, revenues resulting from the bill would have about $8 million. Coal imports have been projected to increase to as much as six million tons in 1990, raising the potential revenue from enactment of H.R. 1905 to nearly $50 million. Enactment of H.R. 1905 would have no impact on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

STATEMENT OF ROBERT M. MCCANN, PRESIDENT AND DIVISION GENERAL MANAGER, BETHENERGY MINES INC., BETHLEHEM STEEL CORP.

SUMMARY

Bethlehem Steel Corporation and its subsidiary BethEnergy Mines Inc. fully support and encourage current Congressional efforts to address the problems involving increasing foreign coal imports in the domestic market. Therefore, we support H.R.

1905, the Coal Trade Equalization Act of 1985, as a means to offset the inequities that domestic coal producers now face in competing with foreign coal producers regarding health, safety and environmental requirements present under the regulations governing the mining and processing of coal in this country.

We believe that foreign coal imports are increasing at an alarming rate and are jeopardizing the future of the domestic coal industry. Already, the domestic industry is operating well below capacity with roughly 30% of the domestic workforce out of work. A recent Department of Commerce study states that coal imports, while totaling 1.3 million tons in 1984, will skyrocket by the year 1990, reaching to between 6.4 and 17.7 million tons. We believe that this alarming rate of increase in foreign coal imports represents a significant threat to the domestic coal industry.

Foreign sources of coal not only shut U.S. coals out of foreign markets, but are now beginning to infringe upon domestic steam markets. The primary market area in which foreign coal sources are being a major threat involves long-term utility contracts. Utility companies along the Atlantic and Gulf Coast are evaluating and testing foreign coal sources as a cheap source of fuel power for power generation. In addition to lower transportation costs by water, foreign coal sources are seen as an attractive alternative because the costs of production are not subject to environmental, safety and health standards of the kinds imposed on domestic coal producers, and as a result, the delivered coal, while not of superior quality, is significantly cheaper.

H.R. 1905 represents a very important step by the Congress toward reducing the inequities of this situation. The $8 per ton duty proposed by the legislation should offset the costs of complying with current U.S. standards for mining and processing coal.

BethEnergy Mines Inc. and Bethlehem Steel Corporation strongly urge the Trade Subcommittee to take up this critical issue. We believe that the time to address this problem is now, before the level of foreign coal imports reaches a level of such magnitude as to seriously harm another basic domestic industry.

STATEMENT

Mr. Chairman and members of the subcommittee, Bethlehem Steel Corporation and its subsidiary, BethEnergy Mines Inc., appreciate this opportunity to submit comments to the House Ways and Means Subcommittee on Trade for its consideration with regard to H.R. 1905, the Coal Trade Equalization Act of 1985, a bill to offset the competitive advantage which foreign coal producers have as the result of not having to meet environmental, health, welfare and safety requirements of the kinds currently imposed on United States coal producers.

As the third largest domestic steelmaker, Bethlehem Steel is deeply concerned about the problems of foreign competition, be it from a steel point of view, on which our thoughts are well documented, or from a coal point of view, which is the purpose of this particular statement.

Indeed, Bethlehem Steel not only utilizes coal in the production of steel, but is an active participant in the domestic coal industry overall. BethEnergy Mines Inc. is a wholly owned subsidiary of Bethlehem Steel Corporation producing bituminous coal products in Pennsylvania at our Cambria and Ellsworth-Butler Divisions, in West Virginia at our West Virginia Division, and in Kentucky at our Elkhorn Division. BethEnergy Mines supplies metallurgical coal to Bethlehem Steel, but also produces a broad spectrum of steam and metallurgical coal products for a variety of customers and markets.

At present, BethEnergy Mines Inc. operates 12 coal mines and 10 coal preparation plants in the 3 states mentioned above. Our reserves total over one billion tons. In addition, on October 1, a new facility, called High Power Mountain, is scheduled to begin production in West Virginia. An $80 million mining complex, High Power Mountain offers reserves of 250 million tons of low-sulfur steam coal, and represents Bethlehem's commitment to remain a part of a viable domestic coal industry.

Having made the commitment, not only to remain in the coal business, but to expand our role significantly, Bethlehem Steel and BethEnergy Mines Inc. have adopted an aggressive marketing strategy aimed at improving our competitiveness in the industry. We have cut costs, improved our productivity, and made technological advances as well. Yet despite these efforts, we are finding ourselves, along with other domestic coal producers, at a competitive disadvantage when compared to cheaper foreign coal sources. These foreign coal sources have not only shut U.S. coals out of certain foreign markets, but more importantly, are now beginning to enter our own domestic steam markets as a formidable competitor.

The problem of coal imports is the subject of a recent study by the U.S. Department of Commerce which states that coal imports are on the rise and will continue to increase in the foreseeable future. The report states that imports totaled 1.3 million short tons in 1984, or double the amount that entered this country in 1982. Further, according to the study, by the year 1990, coal imports are expected to skyrocket to between 6.4 and 17.7 million tons.

Increasing imports will mean the continuing erosion of the U.S. coal market at the expense of domestic coal producers and mineworkers. Already, domestic producers are operating well below capacity with unemployment in the domestic workforce standing at about 30%. Each additional million ton of production imported can mean 200–300 mining jobs lost in the country. Railroads, too, will feel the negative effects of reduced tonnages moving on their systems to coastal utilities.

One area where the impact of cheaper foreign imports is already being felt involves long-term utility contracts. Seaboard utility companies from New England to the Gulf are evaluating and contracting imported coal as a cheap source of fuel power for generation. BethEnergy Mines Inc. has seen this occur just recently in the case of a Florida utility which purchased Columbian coal as half of its new contract tonnage requirement. Delivered price, not quality, was the determining factor in that decision. Several other Gulf and East Coast utilities are now testing foreign coals.

Coal imports have already begun to impact on the domestic industry. As we have seen with regard to imports of foreign steel products, the time to act with regard to foreign imports is before the problem grows so great that the domestic industries will have permanently lost certain markets.

As such, BethEnergy Mines Inc., strongly supports H.R. 1905, the Coal Trade Equalization Act of 1985. This legislation will address some of the inequities that domestic coal producers face in competing with foreign coal producers regarding health, safety and environmental regulations. The $8 per ton duty proposed by the legislation should offset the costs of complying with U.S. standards for mining and processing coal. This gives the domestic coal industry an opportunity to obtain some relief from imports that is currently difficult to obtain through existing trade laws as they are now administered. Further, by addressing this problem early on, the Congress will not find itself with yet another basic domestic industry irreparably harmed.

BethEnergy Mines Inc., and Bethlehem Steel Corporation strongly urge the Trade Subcommittee to take up this critical issue at the earliest possible date. As one company well-acquainted with foreign import problems, we cannot stress enough the importance of addressing this issue now, in order to ensure a viable domestic coal industry capable of meeting all our nation's future energy needs.

Thank you.

ELECTRIC FUELS CORP.,
St. Petersburg, FL, June 24, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

DEAR MR. DOWLEY: I should like to submit a statement for the Record in opposition to H.R. 1905 (Mr. Rahall, Mr. Flippo, Mr. Rangel, et al.). In response to your request dated May 16, 1985, I am attaching a copy of a letter on this subject to Congressman Sam M. Gibbons and also a copy of testimony on this bill I submitted before Mr. Rahall's subcommittee on April 30, 1985.

Electric Fuels is an affiliate company of Florida Power Corporation, the second largest electric utility in Florida. Electric Fuels mines, acquires, and transports coal for Florida Power as well as for sale to others. We currently import approximately one-half million tons a year of coal from Colombia for sale to Florida Power Corporation. Our opposition to this legislation may be summarized as follows:

(1) Any attempt to restrict the importation of foreign coal into the United States could result in retaliation that would be devastating to the U.S. coal industry, an industry that is already suffering greatly. In 1984 the U.S. exported nearly 80.8 million tons of coal, while importing only 1.3 million tons. These imports represent only .14 percent of total U.S. domestic production that in 1984 was 890 million tons.

(2) Any duty or tariff on imported coal would flow directly through to the customers of electric utilities and work a particular hardship on the citizens of Florida.

(3) The importation of minor amounts of foreign coal represents the only competition to U.S. railroads in their transportation of coal and has resulted in significantly lowered overall transportation costs for utilities.

(4) Free and healthy trade, particularly with the countries of the Caribbean Basin, is essential to support those countries struggling to maintain a partnership with the United States.

For these reasons, we urge the defeat of H.R. 1905. If you have any questions or require additional information, please contact Ernst A. Upmeyer III, vice president of Electric Fuels Corporation, P.O. Box 15208, St. Petersburg, FL 33733 or 813/864-5150.

Sincerely,

ERNST A. UPMEYER III,
Vice President.

Attachments.

ELECTRIC FUELS CORP.,
St. Petersburg, FL, June 7, 1985.

Congressman SAM M. GIBBONS,
U.S. House of Representatives,
Washington, DC.

DEAR MR. GIBBONS: I am writing in response to your request for comments on certain tariff and trade bills released on May 16, 1985. Specifically, I am responding to H.R. 1905 (Mr. Rahall, Mr. Flippo, Mr. Rangel, et al). I have attached a copy of testimony that I submitted before Mr. Rahall's subcommittee on this subject on April 30, 1985. In my testimony, I addressed the question raised in the list of bills about comparative environmental health, welfare and safety requirements between U.S. and Colombian projects.

Since Electric Fuels Corporation is currently the only importer of Colombian coal and the benefit of importation of that coal accrues currently to the ratepayers of Florida, we are particularly concerned that this legislation not become law. In addition to the devastating effect on the ratepayers of Florida that would result from this type of tariff imposition, it is highly likely that countries currently importing U.S. coal would follow suit, further eroding the already precarious position of the U.S. as an exporter of coal to the world market.

The solution to the problem of coal imports into the United States lies not in enacting protectionist measures, but in solving the problem of high cost of domestic transportation. In this regard, the importation of Colombian coal by Electric Fuels has served as a lever to substantially reduce the cost of coal delivered to Florida by domestic producers and domestic transportation companies.

It is in the interest of not only the ratepayers of Florida but of the coal industry in the United States to not foreclose the flexibility derived from the importation of some foreign coals. We earnestly solicit your assistance in helping us maintain this flexibility.

Sincerely,

E. A. UPMEYER III,
Vice President.

Attachment.

STATEMENT OF ERNST A. UPMEYER III, VICE PRESIDENT, ELECTRIC FUELS CORP., TO THE U.S. HOUSE OF REPRESENTATIVES, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, SUBCOMMITTEE ON MINING AND NATURAL RESOURCES, APRIL 30, 1985

Mr. Chairman, my name is Ernst A. Upmeyer III. I am Vice President of Electric Fuels Corporation, our corporate offices are located in St. Petersburg, Florida. Electric Fuels is a wholly-owned subsidiary of Florida Progress Corporation, a holding company that, in addition to Electric Fuels and several other subsidiaries, owns Florida Power Corporation, the second largest utility in Florida serving some thirty-two counties within the state.

Electric Fuels was formed to acquire and transport coal for the use of Florida Power Corporation and to engage in the provision of transportation services and the sale of coal to others.

In the conduct of our business, we are involved in a number of activities. We are part owners of a bulk materials handling terminal on the Mississippi River south of New Orleans that handles coal for domestic use as well as for export. We are engaged in the marine transportation business through a partnership that operates tug-barge units for the transport of coal and other bulk materials. Electric Fuels owns six unit trains which transport coal from Appalachia to generating stations in Florida. We own coal reserves in Virginia, eastern Kentucky and West Virginia. We are partners in active mining operations in Virginia and east Kentucky. We buy

coal from a number of other sources, both for Florida Power Corporation and for resale to others.

It is in connection with one of these purchases, a purchase of Colombian coal that I am appearing here today. To understand the environment in which coal purchases are analyzed for use by Florida Power Corporation, it is important that in 1975 seventy-seven percent of Florida Power's generation was oil-fired.

The subsequent dramatic rise in the price of oil wreaked economic havoc on the some 3.6 million people residing in Florida Power's service territory. The hardships created by the rapid escalation in the price of oil fell with particular severity on the large numbers of customers in Florida that are retirees living on fixed incomes.

As a result of an aggressive program of conversion and new construction since 1975, the percent of generation derived from oil has dropped to 13 percent in 1984. Coal—on the other hand—has risen from zero in 1975 to over 46 percent in 1984.

The combination of a dramatic price rise in the cost of energy, coupled with an increase in the percent of coal-fired generation, imposes on all parties concerned with the fuel acquisition process, Electric Fuels Corporation, Florida Power Corporation, and the Florida Public Service Commission, the continuing obligation to seek the lowest priced coal for the generation of electricity.

In January 1984, Electric Fuels issued a solicitation for proposals to supply a compliance coal to be burned in Florida Power Corporation's new Crystal River Units 4 and 5. This scarce ultra low sulfur coal was to be supplied under a fifty-four month contract at a nominal rate of 500,000 tons per year. The coal was required to meet the 1.2 pounds of SO_2 per million Btu, New Source Performance Standard.

In response to that solicitation, Electric Fuels received one-hundred-seven proposals that were judged acceptable for further evaluation.

In evaluating proposals, Electric Fuels considers first the delivered price in cents per million Btu. Further evaluation emphasizes reliability of supply, the ability of the producer to maintain the quality required and whether the particular product adds to the diversity, and thus the security, of supply. The principal benefit to Electric Fuels of the purchase of Colombian coal is that it was the lowest price for coal submitted at the time.

Another benefit resulted from the element of competition presented to the railroads that hauled coal for Electric Fuels. During the time that this commitment was pending, Electric Fuels was engaged in major negotiations with the railroads that hauled coal both to the river and directly to the Crystal River plants. A direct result of the commitment to purchase the Colombian coal was the conclusion of extremely favorable rail rates to both to the river and directly to Crystal River. Rates so favorable that it would, again, make economically feasible the delivery of coal from points as distant as West Virginia.

Execution of the contract for the Colombian coal with Carbocol, an entity of the Colombian government, has presented us with other opportunities we are actively exploring. Since the channel into the Crystal River power plant is too shallow for a ship, the coal from Colombia currently must be taken to New Orleans and transloaded into our ocean-going tug-barge units for delivery to Florida.

One possibility that we are currently exploring is moving at least a portion of the coal from Colombia directly into the Crystal River plants in our American-flag tug-barge units. In conjunction with that movement, we are exploring the possibility of backhauling fertilizer from the Tampa Bay area to Colombia. This would have the beneficial effect of lowering transportation costs and decreasing the trade deficit effects of the purchase of Colombian coal, while at the same time adding jobs for the phosphate miners in a depressed industry in Florida.

In discussions of importation of Colombian coal, much has been made of health and safety and the environmental issues. Having visited El Cerrejon as well as comparable mines in the Powder River Basin and coal mining projects in virtually every coal-producing state in the United States, it is my personal conviction that health and safety issues, as well as environmental issues, are treated in a manner equal to or perhaps in some case better than comparable U.S. projects.

The stability of countries bordering on the Caribbean Basin is of vital importance to the United States. We, in Florida, are particularly sensitive to issues of peace and trade with those of our neighbors in the Caribbean. From the broader perspective, limiting trade with those of our neighbors struggling so hard to become economically viable and secure, stable partners for the United States in the Western Hemisphere would appear to be, at best, poor policy.

In summary, Mr. Chairman, when evaluating a purchase of Colombian coal, Electric Fuels examined a wide range of issues. In an extensive process that involved a number of visits to the property itself, we came to the conclusion that given all of the benefits of purchasing the Colombian coal, to not do so would impose an unac-

ceptable economic penalty on the rate payers of Florida who are, after all, our principal responsibility.

Mr. Chairman, I appreciate the opportunity to discuss this Colombian coal purchase with you. This concludes my testimony and I should be glad to respond to any questions that you might have.

EXXON COAL INTERNATIONAL,
Coral Gables, FL, June 21, 1985.

Hon. SAM M. GIBBONS,
U.S. House of Representatives
Washington, DC.

DEAR MR. GIBBONS: In response to the Subcommittee on Trade's May 16 request for written testimony on a variety of miscellaneous tariff and trade bills, I respectfully request that the attached Senate testimony be included in the record with reference to H.R. 1905.

This testimony was given before Senator Warner's Subcommittee on Natural Resources Development and Production during a June 6 oversight hearing on the impact of coal imports on the domestic coal industry. In addition to my own testimony on behalf of Exxon Coal Intenational, I have included that given by the U.S. Departments of State and Commerce, the National Coal Association, and the New England Electric System. Each of these organizations concludes that limitations on coal imported into this country—such as those prescribed by H.R. 1905—are unjustified and/or counterproductive.

I hope that you and the members of the Subcommittee on Trade find this information useful in your deliberations on this needless and potentially damaging protectionist legislation.

Sincerely,

R. C. KIDDOO,
President.

Attachment.

STATEMENT OF RICHARD C. KIDDOO, PRESIDENT, EXXON COAL INTERNATIONAL, BEFORE THE SUBCOMMITTEE ON NATURAL RESOURCES DEVELOPMENT AND PRODUCTION, COMMITTEE ON ENERGY AND NATURAL RESOURCES, U.S. SENATE, JUNE 6, 1985

Mr. Chairman, my name is Richard Kiddoo, and I am President of Exxon Coal International. My company is responsible for international marketing of most coals produced and traded by Exxon Corporation affiliates throughout the world.

While I intend to concentrate my testimony on our Colombian project, I believe it is important to put U.S. coal imports—present and future—in some kind of perspective. U.S. production of steam coal has grown by some 70% over the past decade, (from 460 miilion tons in 1973 to about 800 million tons in 1984) and is projected by the Department of Energy to increase by another 40% (to over 1,100 million tons) over the next decade. In 1985, domestic consumption of coal is generally expected to continue to rise, even though exports will probably fall. The loss of export markets for U.S. steam coal from over 40 million tons in 1982 to 24 million in 1984, and a probable further drop in 1985, is a function of prices which are not competitive with other major coal exporting nations—principally Australia, Poland and South Africa. The impact of Colombian coal on this loss of export market is negligible, since our exports have only begun in 1985 and will be on a small scale this year.

The U.S. imported about 1 million tons of coal in 1984, and imports are unlikely to be significantly changed in 1985. This means that in 1984 and 1985, imports of coal into the United States represent about one-tenth of one percent (0.1%) of the coal produced or consumed in this country. I have seen no responsible forecasts that suggest that imports are likely to exceed about 1% of U.S. production by the end of this decade.

In spite of its competitive weakness in the steam coal export market, the United States continues to be a strong competitor in world markets for metallurgical coal, and exported about 57 million tons—twice steam coal exports—in 1984. This represented about one third of world-wide international trade in metallurgical coal in that year.

One of the limitations frequently cited for the available market for U.S. metallurgical coal exports has been subsidization of indigenous coal production in certain west European countries. There has been a good deal of discussion within recent weeks in the European economic community and its member countries about EEC

legislative proposals to reduce and eliminate subsidies for indigenous coal production, including metallurgical coal.

Western European countries have already made progress in, reducing uneconomic production of indigenous coal. The prolonged strike in the United Kingdom centered around the closure of uneconomic mines, and the government of that nation has repeatedly expressed dedication to reduce deficits in its nationalized coal industry. Since 1970, West German coal production has fallen from 128 million tons to below 94 million; French from 41 million tons to 19 million; Belgian from 12 million tons to 7 million. Continued phaseout of uneconomic production is very important to U.S. metallurgical coal exporters. It would be unfortunate and untimely if the United States, through protectionist action taken on coal imports, were to serve up a handy example to pro-subsidy forces in European coal producing nations.

Our Colombian project is expected to be producing about 16.5 million short tons of steam coal annually by the end of this decade, and we expect that by far the largest portion of this production will be sold in Europe, where there is substantial and growing import demand for steam coal, and where our coal is likely to be competitive with other world sources.

Our own estimates are that a reasonable potential for some 3 million tons of Colombian or other foreign coal exists by 1990 at coastal locations in the United States, remote from domestic coal fields, and where foreign coal quality fits equipment design. Sales of Colombian coal are unlikely to be as attractive in the areas of the United States nearer U.S. coal fields. Sales to the growing European market are likely to always yield higher prices to Colombia than sales to, for example, even coastal locations in the Middle Atlantic states.

I have seen press reports, and testimony has been given in the House of Representatives by other groups that foreign coal sales—primarily Colombian—could reach 8–10 million tons/year, by the end of this decade. Our studies suggest the smaller figure of about 3 million tons by 1990, but even if other forecasts are accurate, imports would only reach about 1% of U.S. production—hardly a level to suggest a serious threat to the U.S. industry or national security concern.

Colombia is well positioned to serve several coastal areas of the United States with economical coal supplies. At current rail rates, it costs about $18–20/short ton to move coal from Kentucky or West Virginia to Florida, while for coastal power stations in Florida, shipping cost is only about $6/short ton from our port in Colombia. It also costs about $18–20/short ton to haul coal from the Appalachian area to Boston, while marine transportation from Colombia will probably cost about $8/short ton. With a much shorter haul and at least comparable producing economics, Colombia should be a more attractive source than other major coal exporters in Poland, South Africa, or Australia. As evidence of this, utility companies in Florida, Texas, and New England have either contracted or entered serious negotiations for Colombian coal. In two recent tenders for supply to Florida utilities, all other foreign bidders were eliminated in early screening, while Colombian coal was contracted by one, and remains on the list of finalists for the other.

I would now like to spend a couple of minutes on our Colombian project. Exxon and the Colombian government coal company, CARBOCOL, are engaged in the joint development of a large, high-quality steam coal resource in the Guajira peninsula on the northernmost tip of South America. Development of this project commenced almost a decade ago when the Colombian government sought partners from Europe, Japan, and America to join them. As a result of competititve bids, Exxon was awarded its 50% interest and role as operator of this venture. The attraction of this resource to Exxon and the other bidders lay in the large and accessible reserve of thick seams of low sulfur, high calorific value steam coal. From the start, Exxon's development plans have been based on the same high standards of environmental protection, safety, and health as has characterized our operations in the U.S. In the area of environmental protection standards, provision for restoration of the topography is comparable to that which would be made if the project were located in the U.S.A. We are especially proud that in the first full year of mining operation, our safety record has been substantially better than the average of bituminous coal surface mines in the U.S.A. We do have some way to go to match the performance of safety award-winning Exxon mines in Wyoming, where we have not sustained a single lost-time accident in three years. In 1983, the MSHA and American Mining Congress recognized our Rawhide mine as the safest surface mine in the nation, and in 1984, these mines established an all-time National Safety Council record for safe operation.

Production of Cerrejon coal commenced last year, and the first coal was shipped earlier this year. Cerrejon expects to export about 2.8 million short tons this year. So far in 1985, shipments have been made to about ten countries in the European

and Mediterranean area, while one customer in the United States has actually received coal from the Cerrejon project.

As you can appreciate, the construction of the project, including mine, railroad, and a totally new seaport, has been a very large undertaking. It is significant to note that the American prime construction contractor and the partners have already purchased some $500 million in U.S. source equipment and services, and that figure will grow substantially by the time of completion. Replacements, spare parts, and continuing services will contribute a lot more on-going revenue and jobs for U.S. suppliers. Far from representing a drain on U.S. trade at any likely import level of Colombian coal, this project is a substantial favorable contributor to the U.S. trade balance. You will recall that I said that most of the coal will be exported to other parts of the world, where the most severe competition comes from Polish, South African, and Australian supplies. The U.S. source equipment and service revenue from those coals is very small.

Earlier in my testimony I pointed out that Colombia is likely to be the most competitive source of coal for import to the United States, given its location, economics, and coal quality. Thus any action by the U.S. to restrict coal imports represent punitive action against only one foreign nation—Colombia. Such an action would cause a profoundly negative reaction in Colombia because of the importance that the government and national leaders place on the success of the Cerrejon project. I do not believe it is necessary for me to take your time describing the obvious importance to the U.S. of harmonious Colombian/U.S. relations in political affairs as well as economic. But on the economic side, U.S./Colombian trade has been strongly positive (over $4 billion since 1980) in the U.S.'s favor. Last year, U.S. trade with Latin American nations was negative in the amount of about $17 billion, while it was positive with Colombia.

In conclusion, we do not believe that action to restrict imports of coal into the United States is necessary or desirable in view of the very limited scope for such imports in the context of U.S. coal demand and the United States' position as a substantial net coal exporter. Such restrictions could rebound on U.S. interests in the form of new or continued restriction on imports of U.S. coal. Over and above the higher energy costs U.S. consumers would have to pay, such restrictions would also impact significantly on only one nation—not South Africa, not Poland, but Colombia; a democratic, Western Hemisphere nation with important and friendly ties to the United States; a nation which regularly buys a lot more U.S. goods than it covers with exports to this country.

[Additional statements have been retained in the committee files.]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 26, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, DC

DEAR CHAIRMAN GIBBONS: Pursuant to the Subcommittee on Trade's request for written comments on a number of tariff and trade bills, as cosponsors of H.R. 1905, the "Coal Trade Equalization Act of 1985," we are taking this opportunity to provide the subcommittee with our views in support of this legislation.

The purpose of H.R. 1905 is to impose a duty of $8 per ton on coal imported into the United States in an effort to offset the competitive advantage which foreign coal producers have as a result of not having to meet environmental, health and safety requirements of the kind imposed on U.S. coal producers. It should be noted that at present, no duty exists on imported coal.

The U.S. in recent years is becoming increasingly dependent on foreign sources of coal. In 1983, the amount of coal imported into the country doubled over levels established the previous year to 1.3 million short tons. The largest suppliers of imported coal are the Republic of South Africa, Colombia and Canada followed by Poland and Australia. In general, coal from South Africa, Colombia and Poland is primarily steam coal purchased by coastal electric utilities located in the southeastern U.S., with the exception of some Colombian coal being utilized by cement manufactures in Puerto Rico. The coal from Australia and Canada is largely used for purposes other than steam generation, in the case of Canada, by producers of charcoal.

Of major concern are the electric utility purchases of foreign coal. The overall lower delivered price of this coal is made possible due to government involvement in its production and transportation, the lax environmental, health and safety stand-

ards governing coal mining and processing in foreign countries, foreign flag waterborne transportation of this coal and the fact that no duty exists on imported coal.

A recent Department of Commerce study on future electric utility use of imported coal indicates that by 1990, 31 powerplants may purchase 17.7 million tons of foreign coal causing the displacement of U.S. coal production and employment. At this level, there would be more than a 13-fold increase in the amount of coal imported into the U.S. over a six-year period. Jeopardized is an important element of this Nation's progress toward energy independence.

The future prosperity of many coal regions of the U.S. depends largely on the burgeoning steam coal markets of the South. According to estimates published by the Energy Information Administration, 65,490 megawatts of new coal-fired capacity will come in-line nationwide by 1990. Out of this amount, southern states account for 41,246 megawatts—63 percent of the estimated new demand for electric utility steam coal. It is in these very states that a growing interest among electric utilities in imported coal exists.

While we do not view H.R. 1905 as being 'protectionistic,' we are aware that other nations have imposed constraints on imported coal. Many commodities and all energy imports are subject to duties under the Tariff Schedules of the U.S. and we are seeking to have coal treated equally as well as provide increased revenues to the Treasury through customs duty collections.

We further note that existing trade laws, as currently administered, may not provide the coal industry relief in light of the treatment given severly impacted domestic commodities such as copper. In addition, our trade relief laws are geared toward addressing industry-wide impacts. Coal imports at just about any level would never lead to an adverse industry-wide impact, rather, segments of the industry would be severely impacted due to the markets they serve. Further, we view this legislation as an opportunity to address a problem before segments of the coal industry are beseiged by imports and on the verge of collapse.

In conclusion, we view this legislation to be an essential element in the policies governing the natural resource base of the Nation and in any policy with the goal of energy security in the U.S.

Your kind consideration to this legislation would be greatly appreciated. We stand ready to assist the subcommittee in any way possible and will provide any information necessary to further make our case in support of H.R. 1905.

Sincerely,

Ronnie G. Flippo, Ronald V. Dellum, Austin J. Murphy, Douglas Applegate, Parren J. Mitchell, Kenneth J. Gray, Nick J. Rahall II, Tom Bevill, Robert E. Wise, James Weaver, Alan B. Mollohan, Joe Kolter, Don Young, Robert A. Roe, Harley O. Staggers, Jr., Clarence E. Miller, Gus Savage, Gus Yatron, Morris K. Udall, Doug Walgren, Joseph M. Gaydos, Carl C. Perkins, James L. Oberstar, and Charles A. Hayes.

LAKELAND ELECTRIC & WATER,
Lakeland, FL, June 13, 1985.

Hon. SAM M. GIBBONS,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN GIBBONS: As a coal burning utility the proposed $8 per ton tariff contained in H.R. 1905 could have an adverse impact on our rate payers. As Colombian coal and other foreign coals are available to us through the Port of Tampa facilities, this tariff would be detrimental in our attempts to purchase coal at the lowest possible cost which directly impacts our cost of producing electricity.

We, in Florida, are totally dependent upon fuels from outside of our state. We are, thus, not only at the mercy of the fuel supplier's price, but also transportation costs into the state to our generating plants. Anything that could increase the competition in either the fuel supply price or transportation price would bring direct benefits to Florida's residents and consumers of electric power.

Competition within the transportation area could be improved by the use of coal slurry pipelines. We have, in the past, supported the pipeline concept, and will continue to do so in the future. We would hope that you and your fellow Congressmen would address the transportation problem resulting from lack of competition, and particularly the potential of coal slurry pipelines.

We, at the City of Lakeland, would greatly appreciate any and all efforts that can be made to address these problems in order to assure future, low cost electricity available for the benefit of the State of Florida's residents and consumers.

Sincerely,

R. G. SIEGEL,
Managing Director.

MINING AND RECLAMATION, COUNCIL OF AMERICA,
Washington, DC, June 27, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the membership of the Mining and Reclamation Council of America (MARC), a national association of coal producers, ancilliary industries, and 33 affiliated state and regional coal associations, I am writing to apprise you of our full support for H.R. 1905, a bill to impose a duty on certain imported coal, introduced by Representatives Rahall, Flippo, Rangel and others, which has been favorably reported by a unanimous vote of the House Committee on Interior and Insular Affairs on May 8, 1985 and referred to your Subcommittee for consideration. For the reasons outlined below, MARC strongly encourages you and the Subcommittee to expeditiously and favorably recommend enactment of H.R. 1905 to the full Committee and subsequently the House of Representatives.

Should you decide to hold hearings on H.R. 1905 prior to Subcommittee consideration, we respectfully request the opportunity to testify in support of H.R. 1905. Please contact me if there is any additional information or assistance we can provide you or the Subcommittee.

The importation of foreign coal into domestic markets is a growing concern. United States coal imports have increased in recent years and will continue to do so in the future. Imports in 1983 doubled to 1.3 million tons over the previous year. A recent Department of Commerce study indicates that within the next five years, as many as 31 power plants may be using 17.7 million tons of foreign coal. That would be a thirteen-fold increase in coal imports in just six years. However, these numbers are extremely conservative because the Department of Commerce study was based on current electrical generating capacity in the potentially impacted markets and did not consider the development of any new generating capacity.

The Interior Committee's report on H.R. 1905, the "Coal Trade Equalization Act of 1985," brings this additional concern clearly into focus in stating:

"The future prosperity of many coal regions of the Nation depends largely on the burgeoning steam coal markets of the South. According to estimates published by the Energy Information Administration, 65,490 megawatts of new coal-fired electric utility capacity will come on line nationwide by 1990. Out of this amount, the South Atlantic, East South Atlantic, East South Central and West South Central states account for 41,267 megawatts—63 percent of the estimated new demand for utility steam coal. It is in many of these very states that a growing interest among electric utilities in imported coal exists."

MARC finds it ironic and illogical that the United States, with nearly 500 billion tons of demonstrated coal reserves, is slowly but steadily increasing its imports of foreign coal. The extent of the irony was made clear recently by TASS, the official Soviet News Agency. TASS attacked the United States for increasing coal imports and charged that "This is determined by the selfish striving of U.S. imperialism to save its coal until that of the developing countries is exhausted and they are forced to import fuel from the U.S.A." Of course, the Soviet charge is ludicrous political rhetoric, but it underscores the absurd situation facing the domestic coal industry. United States coal, despite the fact that it is in the forefront of mining technology, and has had productivity increases for six consecutive years, is not price competitive with foreign coal in domestic markets.

A number of factors contribute to the non-competitiveness of United States coal. Among them are the labor, safety and health, and environmental compliance standards which United States producers must meet that are not applied in other nations which export to the United States. Other significant factors are the comparative cost of transportation, the United States tax burden, the current high value of the dollar among international currencies and the subsidization of production by foreign governments in an effort to increase exports to obtain foreign currency.

Based upon available information, the most likely markets for coal imports appear to be utilities served by water or in close proximity to water transportation.

This market area encompasses the Gulf and Atlantic Coast and the Lower Mississippi River. The current uncommitted utility demand in those areas for foreign coal that is both price and quality competitive is 14.2 million tons in 1985 and 37.6 million tons for 1990. The uncommitted mining capacity for countries which export to the United States, again on a price and quality basis, far exceeds that level. Whether, and to what degree, the uncommitted demand of Lower Mississippi, Gulf, and Atlantic utilities is met by imported coal and whether those utilities honor their contractual obligations for the committed demand to United States coal producers is a matter for speculation at this time. What is not speculative however, is that a substantial market exists for imported coal in the United States and that increased coal imports will displace domestic coal production and employment, adversely impacting the economic structure of selected coal producing regions in the United States.

The questions raised by the threat of increasing imports is whether it is in the national interest to permit it to occur and, if it is not, what is the appropriate response. The national energy policy, evolved through the decade of the '70's and in response to several severe energy shocks, is to enhance national security by maximizing the use of domestic resources for our energy needs and to foster and develop domestic industries that meet our energy needs and contribute to the energy needs of the free world. Simultaneously, the policy promotes preserving or enhancing the environment and maintaining the quality of life through assuring a safe and healthful workplace and an adequate wage and benefit level for the nation's workers. There is no doubt that increased coal imports are not consistent with those objectives.

U.S. coal producers, in spite of the utilization of the most technologically advanced mining methods and the continuing increases in productivity per man-day extracting coal, can not successfully compete on a delivered price basis in selected markets. There are several reasons for this: (1) unnecessary environmental compliance and labor standard costs faced by United States producers; (2) rail transportation rates for monopolized coal shippers that are excessive and shipping rates for intra-coastal water movements of coal that are statutorily mandated to be carried on United States vessels; (3) coal industries in nations, as Colombia and Poland, that are subsidized through direct financing of mining ventures and construction and operation of transportation facilities; and (4) environmental requirements, safety and health laws; and wage and benefit levels that are, in varying degrees, much lower and far less stringent in countries that export to the United States.

Some or all of these reasons for the non-competitiveness of United States coal must be addressed to assure the industry's continuing viability in impacted domestic markets. In the absence of action, the coal industry will stagnate and begin to shrink as investment capital and operators leave the coal industry and pursue ventures which promise a greater return on their investment.

Beyond coal imports, but in a related vein, is the major threat to the competitiveness of the coal industry presented by proposed tax changes that will impact capital formation.

For the domestic coal industry to remain competitive in an increasingly competitive marketplace, it must continually increase its productivity. Increased productivity does not result from individuals working harder, but is a direct reflection of the introduction of new technologies for mining and the use of improved and more efficient equipment.

The President's recently announced "Tax Proposal for Fairness, Simplicity, and Growth," if enacted in its proposed form, would have a particularly adverse impact on the availability of capital in the coal industry to be invested in technologies and equipment to enhance productivity. The increased tax burden of the proposal, approximately $1 billion per year, would both decrease the attractiveness of investing in the coal industry and substantially reduce the availability of internally generated working capital for new investments. As such, it should be expected that productivity in the coal industry, and, as a consequence, the United States coal industry's competitiveness both domestically and in foreign markets, will both decline if several elements of the President's tax proposal are enacted.

MARC believes that all four of the areas outlined previously must be addressed. For its part, the coal industry will continue to work to reduce mining costs and improve productivity. The industry needs help, however, in making applicable environmental and safety and health laws more cost effective; in eliminating barriers to increased competition for coal transportation; and, in providing meaningful rate review under the Rail Act.

While such action will hopefully be sufficient for the coal industry to be more competitive in selected markets; realistically, they may not be accomplished in the

near term. In the interim, measures must be taken to help offset the unfair advantage of foreign coal producers in United States markets. A coal import duty as that proposed in H.R. 1905, the "Coal Trade Equalization Act of 1985," provides a reasonable methodology to assure that United States coal producers are not unfairly disadvantaged by their compliance with statutory and regulatory requirements to which foreign producers are not held. MARC encourages you and the Trade Subcommittee to support it.

The final reason for non-competitiveness of United States producers, the direct subsidization of foreign producers by their governments is more difficult to address. While remedies are available under the trade laws, they have not been effective when applied to other basic industries in the United States which have faced significant import competition. MARC also encourages the Subcommittee to evaluate this issue and analyze alternatives for addressing it.

Sincerely,

DANIEL R. GERKIN,
President.

NEW ENGLAND ENERGY, INC.,
Westborough, MA, June 25, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter and the attached statement are in response to your May 16, 1985 request for comments on certain tariff and trade bills pending before your Subcommittee.

We urge you not to approve H.R. 1905. The proposed tax would adversely affect electric customers. We also believe the proposed import tax on coal would not be effective in protecting U.S. coal producers from coal imports and would actually be counterproductive.

There are measures that could be taken that would help U.S. coal be more competitive in both U.S. and foreign markets. Such measures are outlined in the attached statement.

Respectfully,

GLENN R. SCHLEEDE,
President.

Attachment.

STATEMENT OF GLENN R. SCHLEEDE

Mr. Chairman and Members of the Subcommittee, my name is Glenn Schleede. I work for the New England Electric System (NEES), which serves customers in more than 1.1 million homes, businesses, and institutions in Massachusetts, Rhode Island, and New Hampshire.

SUMMARY

I appreciate this opportunity to respond to your May 16, 1985 request for comments on certain tariff and trade bills, including H.R. 1905. In brief summary, this statement is:

First, to explain our company's and our customers' interest in coal and coal imports;

Second, to urge you not to support adoption of protectionist measures on behalf of U.S. coal producers since such measure would add to the cost of electricity for millions of Americans;

Third, to explain why we believe an import tax or other protectionist measures would be ineffective and counterproductive; and

Finally, to identify steps that could be taken to make U.S. coal more competitive in U.S. and foreign markets.

I. NEES' and NEES' Customers' Interest in Coal and Coal Imports

Our company and our customers have a strong interest in the cost of coal at the mine and the cost of transporting it to our generating plants. Costs of fuel, fuel transportation, and any associated taxes are costs paid by our customers as a part of their monthly bills.

To understand our concern, it is first important to recognize that coal and the cost of hauling coal now have a significant impact on electric bills in New England.

A. Increased use of coal in lieu of foreign oil

Our foremost objective is to provide reliable electric service at the lowest practicable cost. The cost of fuel to generate electricity is important because it makes up about 35% of our total costs of providing electric service.

We have taken major steps to hold down fuel costs and, simultaneously, to reduce dependence on foreign oil. In 1979, NEES companies were 78% dependent on foreign oil. Today, coal supplies 50% of the energy we need to generate electricity and oil only 25%.

This change resulted from conversion of 6 generating units from oil to coal—at a cost of nearly $300 million. The conversion has been an environmental and economic success. It will continue to be a good deal for our customers as long as the delivered cost of coal is reasonable and we do not have to switch back to oil.

This year, we will burn about 3.5 million tons of coal and avoid burning about 15 million barrels of oil.

B. U.S. coal sources and transportation routes

Within the U.S., we can obtain coal meeting our needs in Pennsylvania, West Virginia, and Virginia. We move this coal to East Coast ports by railroad (there are no practical alternatives). Specifically, coal from Pennsylvania is moved over Conrail to Philadelphia; coal from West Virginia moves via Chessie (B&O and C&O) to Baltimore and Newport News. Coal from Virginia and several counties in southwestern West Virginia moves via Norfolk Southern's N&W railroad to Norfolk.

From these East Coast ports, we then move coal via ship and barge to our generating plants in New England. There are no rail lines to our plants.

C. Recent experience with imported coal

We recently imported some coal from the Canadian province of British Columbia. This experience demonstrated the economic attractiveness of imported coal and the challenges faced by the U.S. coal, rail, and shipping industries in remaining competitive.

1. *Why Canadian coal was purchased.*—Thus far, we have received only one 40,000 ton cargo of foreign coal since our generating units have been converted back to coal. We arranged the cargo in August, 1984 as a part of our continuing program to test cargoes meeting our requirements from all potential sources that are competitive on a delivered cost basis.

When buying fuel meeting our quality requirements, the critical factor to us—and our customers—is the delivered cost. We take into account all elements that make up the total delivered cost when evaluating alternative sources of coal. Those elements include the cost of coal at the mine and all transportation costs. We are really interested in the delivered cost per Btu.

The Canadian cargo was also a part of our contingency plan for the miners' strike that was anticipated in October, 1984.

We do not have a preference for foreign coal. But, we do have an obligation to our customers to purchase fuel at the lowest possible delivered cost.

The delivered cost of the Canadian cargo was slightly less than the delivered cost of spot purchases of U.S. coal made last summer. But as you may know, the coal market has softened since last September and we are now buying spot cargoes at prices even less than the Canadian cargo purchased last August.

2. *Source of the Canadian coal cargo.*—The supplier of the 40,000 ton cargo was Fording Coal Limited, which is a joint venture of Canadian Pacific Enterprises and Cominco Mining. The coal comes from the Fording River Mine, near Elkford, British Columbia. It is a surface mine with an output of 3 to 5 million tons per year.

The mine was developed in 1969 and began operation in 1972. Its primary customers are Japanese, Taiwanese, and Korean steel mills, with some tonnage to South American steel mills and Pacific power plants.

The mine is expected to operate well into the 21st century. It is a highly efficient mine with relatively low ratios of overburden to coal. It has a washing plant at the site and facilities which can load a 10,000+ ton unit train in motion in less than 4 hours.

3. *Rail transport.*—The coal was shipped 780 miles westward by the Canadian Pacific Railroad. It was loaded aboard a ship at the Roberts Bank Terminal at Vancouver, British Columbia. In effect, the unit train of 108 one-hundred ton cars remains in continuous motion between the mine and port and while loading and unloading. Despite the need to cross two high mountain passes (for which more power is added), the unit trains make the round trip in 96 hours. Sixteen to 19 trains shuttle back and forth over the route.

4. *Water transportation.*—The waterborne leg of the route down the West Coast, through the Panama Canal and the Caribbean, and up the East Coast was approximately 8,000 miles. The total rail and water trip of 8,780 miles compares with about 800 miles for coal we purchase from Appalachian areas of the U.S. The ship that carried the coal was Liberian flag, Japanese built and owned, and is operated by a Korean crew. The lower construction and operating costs of foreign flag vessels were reflected in the cost of moving our coal from Canada.

5. *Delivered cost was competitive with U.S. coal.*—As indicated, the delivered cost of this cargo of coal was slightly less than the delivered cost of spot purchases of U.S. coal made at the time. We expect to improve upon the price under any arrangement for additional tonnage.

The cost advantages of the Canadian coal include the lower cost of the coal at the mine—due to the geology and the highly efficient mining and loading operation—and the substantially lower cost per ton-mile of the Canadian rail movement and the foreign-flag vessel.

6. *Coal from Colombia.*—We do not yet have experience with, or as much information about, coal that is becoming available from Colombia—and which is already being purchased by some East and Gulf Coast users. However, I understand that Colombian coal—particularly that from the El Cerrejon project on Colombia's northeastern peninsula—has many cost advantages similar to the Canadian coal: thick seams over large areas; low overburden-to-coal ratios, permitting highly efficient mining; efficient rail transport, with only 100 miles to a deepwater port capable of handling ships up to 150,000 deadweight tons; and ability to use foreign-flag vessels.

II. Protectionist Measures to Reduce the Competitiveness of Imported Coal Would Push up Consumer Costs of Electricity

We are also interested in imported coal matters because protectionist measures—such as the import tax provided for in a bill (HR 1905) recently reported by the House Interior Committee—would push up U.S. consumers' cost of electricity. This could occur in two ways:

A. First, the cost of any import tax would be included in fuel costs paid by customers

As indicated earlier, fuel, transportation, and fuel taxes are a part of the fuel costs reflected each month in customers' electric bills. Thus, any import tax would have an immediate effect on the cost of electricity generated by imported coal.

B. Second, U.S. coal producers and transporters would have less competitive incentive to hold down the cost of coal produced in the U.S.

Most of us have seen how competition from foreign products helps hold down the cost of U.S. products. We also know that reducing the competitiveness of foreign products through an import tax, import restriction, or other subsidy for U.S. products encourages higher prices for U.S. products and services.

Higher prices for U.S.-produced fuel would be reflected in electric bills throughout the country.

III. An Import Tax or Other Protectionist Measure Would not be Effective in Making U.S. Coal More Competitive and Would Likely be Counterproductive

The threat of competition from foreign coal is clear. Imported coal does look like an economically attractive alternative for coal users located on the coasts or on major waterways.

However, imported coal to date is supplying only about .2% of U.S. coal use. We understand that a recent study by the Department of Commerce suggests that imported coal is not likely to make major inroads in the U.S.

We do understand the reasons for some U.S. producers' interest in having an import tax on coal. When faced with price competition, there are always two ways of attempting to gain or regain competitive edge:

One approach is to try to push up the cost of the competitor's product or service. That's the clear purpose of a tax on imports.

The second approach is to try to bring down one's own costs and price.

An import tax on coal has a superficial attractiveness—but I believe it would be an ineffective and counterproductive way to address the problems faced by the U.S. coal, rail, and shipping industries, for several reasons:

A. Factors other than those cited by proponents of an import tax are important in determining the competitiveness of U.S. coal

Proponents of an import tax on coal and other protectionist measures generally cite more stringent U.S. environmental, safety, health and welfare standards as

major reasons why foreign coal has a competitive advantage over coal produced in the U.S. Such requirements probably do affect competitiveness, but our experience with coal imported from Canada—described earlier—suggests other factors are more important. For example:

1. *Cost of coal at the mine.*—Costs of coal at the mine are clearly a major part of the total delivered cost of coal. Costs of coal at the mine include the cost of obtaining the rights to the coal reserves, engineering and permitting costs, cost of equipment and materials, employee costs, on-site transport, coal loading and reclamation costs, royalties and various non-payroll taxes and fees.

The relative importance of the various elements varies widely from mine to mine, depending upon geologic conditions (thickness of coal seams and amount of overburden), type of mining permitted (surface or deep), efficiency of the operations, labor agreements, government requirements, etc.

Our experience with Canadian coal suggests that the particular mine involved has a major advantage over mines in Appalachian states due to geologic conditons; i.e., numerous and very thick coal seams and low ratios of overburden coal. We are not expert in all facets of coal mining, but the Canadian mine from which we obtained coal appears to be a highly efficient operation enjoying relatively low operating costs. It also has facilities permitting very rapid loading of rail cars—which helps hold down total costs.

2. *Rail transport costs high.*—Rail transport costs are also a signficant part of the delivered cost of coal—making up 25% of the total in our case and much larger percentages for some major U.S. coal users. Excessive rail costs are a serious problem for U.S. coal producers and users. Reduction of rail costs represents an excellent opportunity for making coal produced in the U.S. more competitive in both U.S. and foreign markets.

There are at least 3 prime areas for attention:

(a) *Rates for coal cross-subsidize other commodities.*—Perhaps the most obvious area for attention is the added cost loaded on U.S. coal shipped by rail that results from the "license" given railroads in the Staggers Act to include a cross-subsidy for other commodities in rates charged for moving coal. For those who may not be familiar with this situation, I should point out that—under the Staggers Act—railroads are free to:

Charge rates less than necessary to recover fully allocated costs of some rail movements (perhaps where the railroad has competition from trucks or barges), and

Charge more than fully allocated costs on other movements—which often turns out to be coal.

These cross-subsidies add to delivered costs of coal, penalize coal users and their customers, and make U.S. coal less competitive in U.S. and foreign markets. Congress and the coal industry supporters of the Staggers Act probably did not realize back in 1979 and 1980 that they were helping to reduce the competitiveness of U.S. coal.

(b) *Railroad inefficiencies.*—The second area of unnecessarily high rail costs is one for the attention of railroads and coal producers: that is, reducing inefficiencies of rail transport. We became acutely aware of this when we saw the tremendous efficiency of the movement of our cargo of Canadian coal. Clearly, the physical situations are different, including the geology, the geography, and the size of the mining operation, when compared to Appalachia. Yet, consider some of the differences:

Loading speed.—Canadian coal was loaded on a 108-car train in motion in less than 4 hours.

Train movement.—Continuous movement of the unit trains carrying Fording River Coal—with additional power added in motion when it was needed to cross mountain ridges. The 780-mile movements from mine to port required an average of only 2 days. The eastern railroads we use often require 5 days for a 400- to 500-mile movement from Appalachian mines to East Coast ports. In addition:

In the case of one of our U.S. movements, one train crew travels only 68 miles—apparently because of labor agreement provisions.

One U.S. railroad we use makes a switch on average every 70 to 80 miles; another averages one switch every 150 miles. The Canadian coal remains in motion for 780 miles.

One eastern U.S. railroad has very small operating districts; another has somewhat larger districts—but both are small with respect to U.S. western railroads. The Canadian movement was not affected by size of operating districts.

Frequent stopping and switching of cars and locomotives and crews occurs on our U.S. rail movements. One effect in the winter is that the longer times increase the possibility of freezing of coal in the cars—and thus the requirement for freezeproof-

ing, which adds to the coal cost. Coal from Froding River does not require freeze-proofing because of the short time (48 hours) in the rail cars.

Larger rail cars.—The Canadian Pacific uses 100-ton cars. By contrast, we are continuing to find that U.S. railroads provide some cars carrying as little as 50 tons. These small cars tend to have nearly the same length as larger-capacity cars. The inefficiencies are clear when you consider that they carry only half the coal yet take the same time or space in train length, passing sidings, switching, thawing sheds, and dumpers. Thus, handling cost per ton increases when small cars are used.

High fixed costs.—Some U.S. railroads have not reduced fixed costs aggressively. These high fixed costs tend to fall on coal movements where there is little or no competition.

Crew utilization.—Crew utilization became very poor on at least one railroad—due in part to low business volume during the period when coal users were working off inventories built in expectation of a regular triennial mine strike.

All these inefficiencies tend to add costs and thus reduce coal's competitiveness. It is a bit sad to realize that coal producers, railroads, and their employees might prefer to seek a protective tariff rather than face up to the challenge of regaining a competitive edge through improving productivity and efficiency and reducing unnecessary costs. It is particularly sad when you recognize that other industries have contributed to their own lack of competitiveness and decline by following essentially the same approach.

(c) *Excessive railroad returns from coal traffic.*—A third area that contributes to unnecessarily high rail rates for coal is the high returns to railroads allowed for coal traffic. Once again, the Staggers Act is the principal cause of the problem. Among its many provisions that are adverse to coal is the provision that the ICC does not look at the reasonableness of rates unless the rate charged is more than 180% of variable costs. (Shippers must pass the "market dominance" and "revenue adequacy" tests before getting to the 180% test.)

As pointed out in the House Committee report that accompanied the House version of the Staggers Act back in 1980, a rate of 180% of variable cost would provide a return on equity of 62% before taxes.

High returns on coal movements are another contribution to high rail rates for transporting coal and another reason U.S. coal is loding its competitive edge.

3. *Water transport costs high.*—Another example of ways to reduce unnecessary costs of U.S. coal relates to water transport costs. We are not experienced in inland barge movements of coal, but we have enough experience with coastwise movements to know that current legal requirements help push up delivered coal costs. I'm referring to the Jones Act restriction, which required the use of U.S. flag vessels in movements between two U.S. ports. In addition, proposals are introduced each year to require use of U.S. flag vessels for exported coal.

Our recent coal purchase from Canada—where the coal moved 8,000 miles by ship—demonstrated once again the difference in costs between foreign and U.S. flag vessels. The firm selling us the coal chose a foreign flag vessel to deliver the coal because lower ship construction and operating costs made it possible to complete the waterborne leg of the trip—from Vancouver to Massachusetts—at a fraction of the cost per ton-mile of a U.S. flag vessel.

B. An import tax would do nothing to help U.S. coal compete in the U.S. against oil and natural gas

At present, U.S. coal has a significant price advantage over oil and natural gas for those plants having the capability to burn coal. However, we all know that any choice to burn coal requires a significant price advantage in favor of coal because of: Higher capital costs for a coal-fired plant; greater space requirements; greater difficulties in transporting, handling, and storing coal; higher operating and environmental protection costs; and higher ash or other waste disposal costs.

While coal's price advantage has been significant, that advantage is threatened by higher costs of mining, transporting, and using coal and is not great enough now to bring about the conversion of a substantial number of additional plants from oil to coal. Furthermore, all who watch oil and natural gas markets know that supplies are now plentiful and prices are declining rapidly. Thus, U.S. coal faces increasing price competition from oil and natural gas. This competition will be unaffected by an import tax on coal.

C. Measures such as import taxes seldom are effective in protecting a domestic industry

It's clear that some foreign countries can produce and deliver coal at prices below those of U.S. producers and transporters. The U.S. has a wealth of experience to demonstrate that an import tax or other subsidy to protect a higher cost U.S. prod-

uct only works to delay the time when the protected industry must take the steps necessary to regain its competitive edge through greater efficiency or other cost-reduction measures. Delaying truly meaningful measures makes the adjustment more difficult and the dislocation greater once the decline occurs. This certainly has been demonstrated by the steel industry and dozens of others in our country's recent history.

D. An import tax would not help U.S. coal producers compete in foreign markets

Coal imports apparently totalled less than 1.5 million tons, or about .2% of U.S. coal consumption in 1984. The far more important threat to U.S. coal producers would appear to be that foreign producers will further displace U.S. coal in *foreign* markets—particularly in Europe and Pacific Rim countries. U.S. coal exports dropped from 110 million tons in 1981 to 81 million tons in 1984. The high value of the U.S. dollar undoubtedly explains part of the drop, but the ability of other countries to produce and transport coal more cheaply is a critical factor.

Clearly, a tax on coal imported into the U.S. will do nothing to help U.S. coal in foreign markets.

E. Trade barriers invite retaliation

History has also demonstrated that retaliation is the normal response to an import tax—or other forms of subsidies established to create an artificial competitive edge. Apparently this is recognized by supporters of H.R. 1905, since coal from Canada is, in effect, exempt from an import tax. The U.S. now exports some 17 million tons of coal annually to Canada.

F. Protectionist measures are counterproductive in that they divert attention from efforts that could help U.S. coal be more competitive

The time and resources of both the Congress and the coal industry are limited. The efforts already devoted this year to an import tax has diverted attention from actions that could provide greater benefits.

IV. Productive steps that could be taken to help make U.S. coal become more competitive

In summary, there are a number of steps that could be taken by coal producers, miners, transporters and federal, state, and local governments to make U.S. coal more competitive in both U.S. and foreign markets. Some specific suggestions are listed below.

A. Reducing cost of coal at the mine

1. Producers and their employees will have to be responsible for finding ways to improve productivity and reduce costs.
2. Federal, state, and local governments could find ways of reducing taxes and fees which account for more than 10% of the cost of coal at the mine.
3. These same bodies could work to find the most cost effective way of meeting essential environmental, safety, health and welfare standards.

B. Reducing coal transportation costs

1. Coal producers have responsibility to provide efficient loading of rail cars at the mine.
2. Railroads and their employees have responsibility to reduce the inefficiencies that are pushing up costs.
3. Congress can proceed expeditiously to make changes in the Staggers Rail Act of 1980 to: Reduce or eliminate the cross-subsidy that is borne by coal; and bring rail rates and railroads' return on equity back into line.
4. Congress can also pass legislation providing the Federal power of eminent domain for coal pipelines so there are transportation alternatives and competition to help bring about reasonable rail rates.
5. Congress could also pass legislation to reduce the high cost of shipping due to Jones Act restrictions.

CONCLUSION

The U.S. coal, rail and shipping industries and their employees—as well as their representatives in government—face a serious challenge in making U.S. coal competitive with other fuels and with coal from other countries. I believe that all who are interested in the tremendous contribution that U.S. coal can make to the nation's strength and welfare will be better served if that challenge is met head on—

rather than trying to avoid the challenge through protectionist measures that are unlikely to be effective.

I would be pleased to try to answer any question you may have. Thank you.

PEABODY HOLDING CO., INC.,
Washington, DC, June 13, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. DOWLEY: Peabody Holding Company, Inc., the parent company of Peabody Coal Company and other subsidiaries constituting the largest coal producer in the United States and having more than 40 active coal mining operations located in 11 states from Appalachia to the Rocky Mountains, urges the Committee to consider the Coal Trade Equalization Act of 1985 (H.R. 1905).

H.R. 1905 recognizes the competitive disadvantage at which domestic coal producers find themselves in attempting to compete with coal produced in foreign countries. The domestic coal producer is required, at great expense, to meet a multitude of environmental, health, welfare and safety standards which this country has determined are essential to the well being of all of us. These requirements are not imposed upon foreign coal producers. The lack of such standards for foreign coal producers results in reduced production costs and a reduced sales price for imported coal. This competitive advantage will result in further dislocation and unemployment in the domestic coal industry. We believe the tariff suggested in H.R. 1905 will help to offset the price advantage of foreign coal sold in the U.S. market because of its less stringent safety and environmental standards.

Peabody urges the House Committee on Ways and Means to support H.R. 1905 and to report it out favorably to the full House of Representatives.

Sincerely,

CHRIS FARRAND,
Vice President Government Relations.

SUNBEAM COAL CORP.,
Boyers, PA, June 18, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR CONGRESSMAN GIBBONS: The current federal Health and Safety Laws and the Federal Surface Mining laws have quadrupled the cost of production and cut in half the output per mine in the last twenty years.

We can not survive against foreign coal imports that do not have their financial and physical burdens.

We have operated at a profit in only three of the last ten years.

We employ directly 85 people plus 35 truck drivers plus 10 other subcontracting people.

Please support the passage of H.R. 1905.

Sincerely yours,

WILLIAM L. HARGER,
President.

STATEMENT OF UNITED MINE WORKERS OF AMERICA

The United Mine Workers of America has serious concerns about the danger of coal imports. Our country is blessed with an abundance of coal that can sustain our energy needs for centuries. We have the technology and the societal mandate to mine our vast coal reserves without degrading our environment, without endangering the safety and health of coal mines, and without adverse effects on public health and welfare. Nevertheless, we import coal. In just over a decade, more than 7.5 million tons of coal from South Africa has been burned by U.S. utilities. South Africa engages in repugnant racial discrimination. Its government policies toward black workers are the very antithesis of accepted practices in our country. In UMWA mines, job advancement is based on seniority and ability. In South African mines, jobs are awarded based on the color of one's skin. Our purchases of South African

coal are no less than tacit support for racist policies. And they serve to undermine our own free institutions.

Poland presents us with another repugnant situation. We should not be supporting the oppressive, communist regime of General Jaruzelski. As in the case of South Africa, commerce with Poland is tacit approval of oppression. We should stop the hypocrisy of buying coal from totalitarian regimes.

Perhaps more important to the United States in economic terms is the importation of coal from Colombia that is being developed with American capital and American technology. The Cerrejon Mine, jointly developed by the Colombian Government and the Exxon Corporation, has reserves estimated as high as 3 billion metric tons, 1.8 billion of which lies within 200 feet of the surface. Production is expected to exceed 2 million metric tons in 1985, with full production of about 15 million tons per year by 1989. Production could be expanded to as much as 25 million metric tons per year.

Since the mine is in an isolated and sparsely populated area, vast capital investment in infrastructure was required to develop the mine—about $3 billion, which will be shared equally by Colombia and Exxon. American taxpayers also will share the cost; they are footing part of the bill. The Export-Import Bank has authorized direct loans of $487.5 million for the Cerrejon project and an additional $65 million for private credit. American taxpayers are subsidizing a project that will cost Americans their jobs.

A recent study by a private consulting firm showed that, by 1990, some 35 million tons of uncommitted coal demand will exist at Atlantic coast and gulf coast utilities. Perhaps 8.8 million tons would be satisfied with coal from foreign sources. The displacement of 8.8 million tons of U.S. production will cause significant harm to coal miners and their communities. Much of the coal that would be displaced is produced in Appalachia, already devastated by the severe decline in the world steel industry. Based on average 1983 productivity in Appalachia, 8.8 million tons of foreign coal would be the equivalent of about 2,800 direct mining jobs. These jobs would generate over $80 million per year in direct income. In addition to direct jobs, there would be an indirect employment effect in support and service industries—an additional loss of 6,300 indirect jobs that would have generated an additional $100 million per year of income for the coal mining communities of Appalachia.

In a separate study, the U.S. Commerce Department projected displacement of 6.4 million to 17.7 million tons of U.S. coal by imports, which could result in the loss of up to 2,780 direct coal mining jobs.

We strongly believe that free collective bargaining should determine our standard of living. We should never allow American standards to be set by the lowest common denominator in the world market. If we do, our living standard will be set by those who employ slave labor and those who perpetuate practices that were abandoned by civilized society generations ago. We should do all that we can to help the world's downtrodden. But we should never be dragged into the economic morass that suffocates many of the world's workers.

Representative Rahall has introduced a bill to address the coal import problem. H.R. 1905, recently adopted by the House Interior Committee, would place a minimum tariff of eight dollars per ton on coal from any nation that is not a net importer of U.S. coal. The UMWA has testified in support of that measure and hopes that the Ways and Means Committee will consider it favorably.

The continued deterioration of our basic industries could leave America seriously vulnerable should there be major conflict in the world. It is imperative that we protect and bolster those basic industries. At one and the same time, we can contribute to our national security and our economic well being. We are blessed with an abundant resource, efficient technology and a talented work force. Our policy must be one that recognizes these blessings and uses them to preserve and protect all that we hold dear.

STATEMENT OF RICHARD L. TRUMKA, PRESIDENT, UNITED MINE WORKERS OF AMERICA, BEFORE THE SUBCOMMITTEE ON MINING AND NATURAL RESOURCES, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS—APRIL 30, 1985

Mr. Chairman and members of the subcommittee, I am Richard Trumka, president of the United Mine Workers of America. On behalf of the members of the UMWA, especially those who are currently without jobs and those whose jobs are threatened by unfair competition from abroad, I want to thank you for holding this hearing today and asking for the views of America's coal miners. I particularly want to commend the chairman and the co-sponsors of H.R. 422 for their insight into the dangers posed by the importation of foreign coal that is mined under vastly

different labor, health, safety and environmental standards than we have in the United States. The coal miners of this Nation appreciate the concerns you have shown for their well-being and fully support your efforts to enact this important legislation.

If I may, Mr. Chairman, I would like to begin by providing some background on the union and the people that I represent. The United Mine Workers of America is composed of approximately one quarter of a million working, retired and unemployed coal miners and related workers throughout the United States and Canada. Relative to some other labor unions the UMWA is small in numbers, but we are the Nation's largest energy producing union. UMWA members mine every type of coal that is mined in the United States—anthracite, bituminous, subbituminous and lignite. In addition to the actual mining of coal, our members also are actively engaged in the construction of coal mines and preparation plants, the repair and maintenance of equipment and the reclamation of coal lands after the coal has been mined. Thus, UMWA members are involved in every phase of the coal production cycle.

As I mentioned, UMWA miners are spread throughout the United States. While our membership is somewhat concentrated in the coal mining communities of Appalachia and the interior basin, we also represent thousands of underground and surface miners in the South, the Southwest, the Northern Great Plains and the Rocky Mountains. All told, we represent about 70 percent of the workers in the U.S. coal mining industry.

The paramount concern of the UMWA is the men and women who earn their living by mining coal. We are concerned about their health and safety on the job, the stability of their employment and the standard of living that they maintain. Anything that affects their lives—on the job or in their communities—is an important issue for us.

That brings us to the subject of today's hearing—the importation of coal into this coal-rich Nation. If ever there was an example of "carrying coal to Newcastle" this is it. Our country is blessed with an abundance of coal that can sustain our energy needs for several centuries. We have the technology and the societal mandate to mine our vast coal reserves without degrading the quality of our land and water resources. We have the technology and the societal mandate to mine coal safely and to protect the health of coal miners. And we have the technology and the societal mandate to burn our coal cleanly without adverse effects on public health and welfare. We have the ability to accomplish all these important goals and still provide the miners with a decent standard of living in return for their arduous labor. In addition, we can achieve society's worthwhile goals and still provide profits to the coal operators in return for their investment.

Many in the coal industry argued tenaciously against the laws and regulations that society demands of us. Some still oppose the essence of these laws and would undo them if they could. But most coal operators have come to accept the wisdom of mining coal in a responsible manner and have learned to adapt to the stringent requirements that have been placed on the coal industry. Without question, we have a long way to go. Far too many people are killed or maimed in the Nation's coal mines. And too many reckless, irresponsible operators flaunt the law and show contempt for Government authority at the expense of the responsible operators who accept the strictures that have been placed on them by their fellow citizens. But we are making progress. I believe that further progress in these areas will be good for the coal industry and good for our country.

But our efforts can be subverted by the erosion of our markets by foreign produced coal.

For over a decade, coal from South Africa has been burned in the United States. To date, over 7.5 million tons of South African coal have been imported by U.S. utilities. As we all know, South Africa engages in constitutional racial discrimination that is repugnant to freedom loving nations. Its official Government policies toward black workers are the very antithesis of accepted practices in our country. The UMWA outlawed discrimination based on race, creed or national origin upon its creation 95 years ago. In UMWA mines, job advancement is based on seniority and ability. In South African mines, jobs are awarded based on the color of one's skin.

Some time ago, the leader of South Africa's black miners, Cyril Ramaphosa, visited us to discuss the problems his union membership faced. I wish the customers of those utilities that purchase South African coal had the opportunity to listen to him. He is no wild-eyed radical seeking violence, but a decent human being who yearns for the basic human freedoms that we too often take for granted. Our citizens enjoy the benefits of a society dedicated to justice, equality and compassion. The black miners of South Africa reap a bitter harvest of discrimination and abuse. I am certain that the management and customers of Gulf Power cherish the bene-

fits bestowed on them by a free, democratic society. I want to believe that they would not wish to assist in the perpetuation of the repugnant racial practices of the South African Government. But I would like to remind you that some 6,000 black workers at a state facility were fired last November simply for protesting the official racism of the regime in which they live. A month earlier 1,100 black miners had been fired summarily in a dispute over wage payments. Our purchases of South African coal are no less than tacit support for such racist policies. And they serve to undermine our own free institutions.

We should not be supporting the racist Government of South Africa by importing its coal into the United States. Those who argue that South African coal is cheaper are placing a shamefully low price on human freedom.

The same can be said about Poland. We should not be supporting the oppressive, Communist regime of General Jaruzelski and his henchmen. How anyone can support a government whose officials kidnap and murder priests is beyond me. Yet Tampa Electric continues to do business with Poland. As in the case of South Africa, to engage in commerce with countries like Poland, which denies basic human freedoms to its citizens, is to give tacit approval to their practices. As a freedom loving people, we should stop the hypocrisy of buying coal from totalitarian regimes.

Perhaps more important to the United States in economic terms is the importation of coal from Colombia. As Interior Secretary Donald Hodel recently said, this is "very low cost coal produced under rules and restraints that are not comparable to ours from an environmental standpoint." In addition, the coal is being developed with American capital and American technology. Let me give you a little background on this project.

The Cerrejon region of Colombia contains about 90 percent of the country's proven coal reserves. It is situated on a dry and sparsely populated peninsula in the northeast corner of Colombia adjacent to the Caribbean Sea.

Ten years ago the Government of Colombia solicited bids from international energy firms to develop coal reserves in the Cerrejon region. The successful bidder was International Colombia Resources Corporation (Intercor), a subsidiary of Exxon Corporation. Intercor signed a joint development agreement in 1976 with Carbocol, a coal company formed and owned by the Colombian Government. Under the terms of the agreement, Carbocol will retain title to the coal reserves and Intercor will operate the mine. Capital investments are to be shared equally between the parties, as is the eventual output of the mine. Each partner will be responsible for marketing its share of production. Current plans call for all production from the mine to be exported. The first step in the country's aggressive energy plan. Colombia's national energy plan, adopted in 1982, calls for the capture of 10 percent of the world coal export market by the year 2000. By that time, Colombia expects to export 55 million metric tons of coal per year.

The Cerrejon Mine has an abundance of reserves, with estimates ranging as high as 3 billion metric tons. More important, 1.8 billion tons are estimated to lie within 200 feet of the surface. Production from the mine is expected to exceed 2 million metric tons in 1985, with significant increases thereafter. The current schedule is for 7 million tons in 1986, 9 million tons in 1987, 12 million tons in 1988 and full production of about 15 million tons per year by 1989. If market conditions warrant, however, the production level could be greatly expanded, possibly to a level as high as 25 million tons per year.

Since the mine is located in an isolated and sparsely populated area, a great deal of capital investment in infrastructure was required to bring the mine into development. As an example, the companies had to build a port and dredge the harbor to allow large ocean-going colliers and gulf barges access to the mine. Since the mine is 90–100 miles from the port, two parallel roads had to be constructed—a gravel road to accommodate supply trucks and a railroad to haul coal. In addition, two airports were built, one at the port and one at the mine. Finally, the companies had to construct an entire community from scratch in order to house the workers. The capital cost of the mine and related facilities is said to be about $3 billion, which will be shared equally by Colombia and Exxon. At a time when our own coal industry has the ability to produce 100–200 million tons more than we can consume, this is a very strange way for an American company to spend money.

The Cerrejon partners have secured a number of buyers for their coal. Among the countries to which Colombia will ship coal are the United States, Denmark, Sweden, Finland, Italy, Ireland, Spain and France. In addition, they continue to mount an aggressive marketing campaign to add new utilities and industrial concerns to their list of customers. Much of this activity is occurring in the United States.

It is difficult to predict precisely how much foreign coal will be brought into the United States in coming years. For example, the U.S. Department of Energy's most recent Annual Energy Outlook makes no attempt to project the level of future coal imports. Despite this lack of hard information from Government sources, however, there is a consensus among industry observers that foreign coal penetration into the United States will increase significantly in the next few years.

A recent study by a private consulting firm, based on interviews with utility coal buyers, showed that by 1990 some 35 million tons of uncommitted coal demand will exist at Atlantic coast and gulf coast utilities that are technically capable of burning foreign coal. Of this total uncommitted demand, the study projected that about 8 million metric tons (8.8 million short tons) would be satisfied with coal from foreign sources. This, in fact, might be the lower bound for coal imports, since the study did not consider possible movements of Colombian coal up the Mississippi River to Midwestern power plants. This might open up another market that could increase the level of coal imports significantly.

Even if no other markets are opened, however, the displacement of 8.8 million tons of U.S. production will cause significant harm to coal miners and their communities. Most of the coal that would be displaced is produced in Appalachia, an area that already has been devastated by the severe decline in the world steel industry. Based on average 1983 coal mine productivity in Appalachia, 8.8 million tons of foreign coal would be the equivalent of about 2,800 direct mining jobs. These jobs would generate over $80 million per year in direct income that the miners would spend in their communities. In addition to direct jobs, there would also be an indirect employment effect in support and service industries. We estimate that the loss of direct coal mining jobs wold cause an additional loss of 6,300 indirect jobs that would have generated an additional $100 million per year of income for the coal mining communities of Appalachia.

These numbers show only a part of the economic impact of coal imports on the United States but they certainly show that the cost of imported coal is considerable in terms of unemployment and lost opportunity to generate income in areas of the country that desperately need an economic boost.

Mr. Chairman, the UMWA has been engaged in a long struggle to raise the standard of living among the Nation's coal miners. It has not been easy, but we have built an economic system in the U.S. coal industry that provides decent wages, pensions and medical care for the workers while ensuring the Nation an abundant supply of low cost energy. This has been accomplished through the best system that has ever been devised to ensure industrial democracy—free collective bargaining.

We strongly believe that Americans, dealing with one another as equals in free collective bargaining, should determine the standard of living in our country. The process has served our Nation well by creating the highest economic standards that the world has ever known. We should never allow American wages and standards to be set by the lowest common denominator in the world market. If we do, our living standard will be set by those who employ slave labor and those who perpetuate practices that were abandoned by civilized society generations ago. It is an inescapable fact that we will always have workers in other parts of the world who will be working for serf wages because their families are near starvation. And to the shame of all who believe in freedom, we will always have multinational corporations that will exploit the pitiful economic conditions of these desperate people. We should do all that we can to help the world's downtrodden. But we should never, never allow American workers to be dragged into the economic morass that suffocates many of the world's workers.

The lowering of wage rates and standards of living among our fellow citizens is the logical end result of a continuing flood of cheap imports that are based on wage rates and operational practices alien to our way of life. But such a result has economic implications far beyond the everday life of the affected workers. Two-thirds of our gross national product is the result of personal consumption—the purchase of cars, appliances, furniture and other goods that make our lives comfortable and sustain the profits of major corporations. The lowering of wage rates, therefore, necessarily implies a reduction in GNP. If workers do not have the income to buy goods other than the basic necessities, who will buy the products offered for sale by the corporations? Our economic system is built on the purchasing power of consumers. We should not let that system be eroded by a flood of low cost imports.

Many of us share the fear that the continued deterioration of our basic industries will leave America seriously vulnerable should there be major conflict in the world. I believe it imperative that we do all in our power to protect and bolster those basic industries. H.R. 422 is an excellent example of what we can and should do. At one and the same time, we can contribute to our national security and our economic

well being. We are blessed with an abundant resource, efficient technology and a talented work force. Our policy must be one that recognizes these blessings and uses them to preserve and protect all that we hold dear.

WEST VIRGINIA SURFACE MINING AND
RECLAMATION ASSOCIATION,
Charleston, WV, May 23, 1985.

Mr. JOSEPH DOWLEY,
Chief Counsel, Committee on Ways and Means,
Washington, DC.

DEAR MR. DOWLEY: On behalf of our more than 300 members, both directly and indirecly involved in the mining of coal, we wish to heartily endorse and recommend the passage of the Coal Trade Equalization Act of 1985. Having been briefed on this proposed legislation by our Congressman, Nick Joe Rahall, II, the Board of Directors on Wednesday, May 22, 1985, unanimously endorsed and urged swift passage of the same.

As you are no doubt aware, West Virginia coal has been at a competitive disadvantage for several years and is now being threatened by the importation of coal from South Africa, Colombia, and even Poland and Australia. What a travesty when we are endowed with the most abundant coal reserves in the world.

Should there be a need for further information or additional data to support this bill, please feel free to be in touch.

Sincerely,

BENJAMIN C. GREENE,
President.

WESTERN VIRGINIA RESOURCES, LTD.,
Huntington, WV, June 27, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR CONGRESSMAN: It is my understanding that H.R. 1905, The Coal Trade Equalization Act of 1985, sponsored by Congressman Rahall and the other Representatives from West Virginia, is presently before this sub-committee. I am therefore asking each member of this sub-committee to be objective in looking at this bill. You will then understand the economic and social impact this bill will have on West Virginia, other coal producing states and southern utilities.

Without this bill the loss of jobs in West Virginia and other coal mining states will be an economic drain on the coffers of the United States. The loss of revenue in tax dollars, added to the funds Congress must then appropriate to pay unemployment, amounts to another step away from stabilization of the national debt. This economic drain on the United States is and will amount to lower social standards for the citizens of this Country. The snowball effect will mean havoc for areas that are already faced with some of the highest unemployment figures in the United States.

These utilities will not need coal from anywhere if people are not working. Therefore they must be shown that if you want to sell electricity in the United States, then we must keep as much of the money spent in producing that electricity, as possible in the United States.

We cannot continue to deal with foreign governments, that change from day to day. You the Congress must now allow these utilities to get in a position, such as during the oil embargo of the mid '70's. This could happen as easily with coal as it did with oil. We must guard against any and all such possibilities that effect our economy when dealing with a country whose government has participated in drug smuggling into this Country. Coal to us is our living, to Colombia it is nothing compared to drugs. You cannot and must not allow the United States to be in a position such as I can visualize, where our coal can be shut off, if we do not ease up on drug smuggling from Colombia. You may argue that cannot happen. I have been told by reliable sources that Colombia intends to use Exxon to do just this. Exxon has already found dynamite along the rail lines leading to their mining operation(s) in Colombia. Between drugs and coal mining, we all know that drugs is much more lucrative and that greedy people are capable of doing the unthinkable, and the unreasonable. It is the job of Congress to see that we are not put into situations that would allow any person(s) or country to even think we are at their mercy. Do not

willingly make the American people potential hostages to an unstable Government. Remember you are dealing with a government whose policy changes as the leaders change, often and abruptly, without warning. Also remember the slogan many unions use Buy American.

Sincerely Yours,

THOMAS W. MAY,
President.

H.R. 2028

To render watches eligible for preferential treatment under title V of the Trade Act of 1974

H.R. 2029

To amend the Tariff Schedules of the United States in order to eliminate the special marking requirements for imported watches and clocks and components thereof

See statement of American Federation of Labor and Congress of Industrial Organizations under H.R. 821.

U.S. International Trade Commission

H.R. 2028

Section-by-section analysis

H.R. 2028, if enacted, would make watches eligible for preferential treatment under the Generalized System of Preferences (GSP).[1] Section 1 of the bill would accomplish this by amending section 503(c)(1) of the Trade Act of 1974 by striking out subparagraph (B) covering watches and redesignating subparagraphs (C), (D), (E), (F), and (G) as subparagraphs (B), (C), (D), (E), and (F), respectively.

Section 2 would make these changes effective as the date of enactment of the legislation.

Background and sponsor's justification

Description and uses.—Watches, as defined in headnote 2(a) to schedule 7, part 2E of the Tariff Schedules of the United States (TSUS), are timepieces suitable for wearing or carrying on or about the person. The most common type of watch is the wristwatch, which is affixed to the wrist by means of a strap or bracelet. Watches may also be carried in the pocket, set in rings and worn on the finger, worn on chains around the neck or pinned to the outer clothing. While viewed primarily as functional articles, many watches are fashion items and are sometimes considered articles of jewelry.

Conventional watches use a balance wheel and hairspring as a time base, and may or may not be battery operated. Nonconventional watches use a quartz crystal as a time base [2] and are energized by a battery or solar cells.

The two major parts of a watch are its movement, or module, and its case. The movement or module performs the timekeeping function of the watch. Headnote 2(b) to Schedule 7, part 2E, of the TSUS defines a watch movement as "a timepiece movement measuring less than 1.77 inches in width and less than 0.50 inch in thickness." A watch module is a device that meets the same size criteria as a watch movement, but is regulated by a quartz crystal or other system which determines intervals of time and has a display [3] or a system by which a display can be incorporated. A movement or module is placed in a case to make a complete watch.

A movement may be either mechanical or electromechanical. Mechanical movements have a hairspring and balance wheel which is oscillated by power supplied

---

[1] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[2] There are also tuning fork and electric movements. However, neither is known to be currently produced.

[3] Liquid crystal display's (LCD's) are the most common. Light-emitting diode (LED) displays were prevalent at one time, but have been replaced by the LCD.

from a mainspring or battery. The oscillation furnishes motive power for the mechanical operation of the timepiece through a system of gears and levers. Electromechanical movements use a synchronous motor with a quartz time base powered by battery or by solar cells. This type of movement is more accurate than others and uses either few or no moving parts, depending on whether it is a quartz analog or solid state movement.

Sponsor's justification.—When the Trade Act of 1974 was passed, the U.S. watch industry was considered import-sensitive. Therefore, watches were excluded from the list of articles eligible for the GSP. The sponsors of this legislation maintain that since that time the number of U.S. firms manufacturing watches has significantly decreased due to competition from the Orient, where cheaper production costs results in lower-priced watches. Since there are virtually no domestic manufacturers,[4] they claim that there is no longer any need to provide protection from imports.

Comparison with present law

Tariff treatment under the TSUS.—Solid state electronic watches are classified under TSUS item 688.36. Other watches (conventional and electromechanical) are classified under TSUS item 715.05.

Item 688.36 has a column 1 [5] duty rate of 4.3 percent ad valorem, and a column 2 [6] rate of 35 percent ad valorem. A separate rate of 3.9 percent is provided for least developed developing countries (LDDC's).[7] Such articles imported from eligible Caribbean countries may qualify for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA),[8] unless they contain any materials which are the product of a country to which column 2 duty rates apply.

In *United States* v. *Texas Instruments,* 69 CCPA 136 (1982), the Court of Customs and Patent Appeals, affirming the decision of the Court of International Trade in *Texas Instruments* v. *United States,* 1 CIT 236 (1981), determined that assembled solid state electronic watches and modules were classifiable as electrical articles and parts thereof, not specially provided for, under item 688.45 of the TSUS. U.S. Customs had classified the merchandise under item 715.05. The Court found, however, that item 715.05 covers only those watches posssessing "watch movements". The court found that since solid state electronic modules have no moving parts they are not watch movements and, thus, solid state electronic watches are not classifiable as watches under item 715.05.

A new TSUS item, 688.36, was created for solid state electronic watches, clocks, and modules by Executive Order No. 12371, effective July 13, 1982. Item 688.36 is subject to the staged duty rate reductions, negotiated for item 688.45 in the Tokyo round of Multilateral Trade Negotiations (MTN), as follows:

	Column 1 rate effective on or after January 1
Year:	
1982	4.9% ad val.
1983	4.7% ad val.
1984	4.5% ad val.

[4] The domestic watch industry now primarily merely assembles components produced abroad.

[5] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[6] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[7] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rates of duty in column 1 applies.

[8] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

1985	4.3% ad val.
1986	4.1% ad val.
1987	3.9% ad val.

Item 715.05 has a column 1 duty rate of the sum of the column 1 rate applicable to the case plus the column 1 rate applicable to the movement, if the case and movement were imported separately.[9] The column 2 rate is equal to the sum of the applicable column 2 rates. There is no separate LDDC rate for item 715.05. Articles imported under item 715.05 may qualify for the CBERA if no materials from column 2 countries were used.

The rate of duty for watch cases depends upon the material from which it is made. The duty on the movement depends upon several "quality" features associated with a conventional watch, such as the number of adjustments, size, and how long it runs without rewinding. Duty is also assessed on the watch bracelet, if one is attached.

Watches, classifiable under item 715.05, which were produced or manufactured in an insular possession of the United States, are eligible for duty-free entry if they conform to the quota and other requirements of headnote 6 to schedule 7, part 2E.

Tariff treatment under the proposed Harmonized System (HS).[10]—The classification of watches, movements, and cases under the HS is shown in Attachment B.[11]

Structure of the domestic industry

The quartz analog movement and solid state electronic module have revolutionized watch technology since they appeared on the market in the mid-1970's. Since the late 1970's the domestic watch industry has, for the most part, moved production offshore to areas (primarily the Far East) with lower labor costs. There is some manufacturing of watches and watch movements in the U.S. insular possessions. However, the value of this production is negligible when compared with apparent consumption. Domestic watch manufacturing consists primarily of assembling components produced abroad. Procedures performed include attaching dials and hands to movement assemblies, encasing movements, regulating, packaging, and marketing.

Assembly of conventional movements is labor intensive because there are numerous small parts requiring assembly by hand. Solid state digital assembly is more capital intensive with fewer parts to put together. Quartz analog movement assembly is more labor intensive than solid state assembly since a quartz analog movement has characteristics of both conventional and nonconventional movements.

Domestic employment data are unavailable, although industry sources estimate current employment at 3,000 to 4,000 people. Workers in the actual manufacturing process are largely semi-skilled and non-skilled.

There are an estimated 150 companies performing assembly operations. The largest 5 companies account for an estimated 80 to 90 percent of production. Although the majority of watch producers are located in the New York area, the remaining companies are located in approximately 15 states. Major watch companies and their locations include:

Timex Corp.
Park Road Extension
P.O. Box 2126
Waterbury, CT 06720

Seiko Time Corp.
640 5th Avenue
New York, NY 10019

Bulova Watch Company
75-20 Astoria Blvd.
Jackson Heights, NY 11370

Advance Watch Co.
26400 E Eight Mile Road
Southfield, MI 38034

Casio Inc. Timepiece Div.
15 Gardener Road
Fairfield, NJ 07009

Citizen Watch Company
of America, Inc.
1200 Wall Street, NW
Lyndhurst, NJ 07071

---

[9] See Attachment A for current rates of duty applicable to watch movements and watch cases.

[10] The Harmonized System is intended to serve as the single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

[11] Source: Trade Policy Staff Committee, *Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System* (September 1984).

Longines-Wittnauer Watch Co.
145 Huguenot
New Rochelle, NY 10802

Helbros Watches Inc.
330 W. 34th Street
New York, NY 10001

Swatch Watch
608 5th Avenue
New York, NY 10017

Armitron Corp.
29-10 Thompson Avenue
Long Island City, NY 11101

Domestic production

Estimated shipments of watches by U.S. producers, in terms of value, decreased from $483 million in 1980 to $268 million in 1984, or by 45 percent (see table 1).

U.S. imports

U.S. imports of watches almost tripled in terms of quantity from 50 million units in 1980 to 140 million units in 1984. In terms of value, watch imports increased from $613 million in 1980 to $716 million in 1981, then dropped to $578 million in 1982. Such imports rose to $845 million in 1984 from $697 million in 1983. Conventional and electromechanical watches accounted for 31 percent of the total quantity and 76 percent of the value of watch imports in 1984. The leading supplier of watches in terms of value in 1984 was Japan, accounting for $324 million, or 38 percent of the total. In terms of quantity, the leader was Hong Kong with 101 million units, or 72 percent of the total. Japan was second in quantity, Hong Kong was second in value, and Switzerland was third in both. Data concerning the five largest importers are business confidential.

U.S. exports

U.S. exports of watches increased from 920,000 units, valued at $18 million, in 1980 to 1 million units, valued at $20 million, in 1981. Since then exports have steadily dropped to 437,000 units, valued at $7 million, in 1984. Hong Kong is the leading market for U.S. watches. Canada and Venezuela are the second and third leading markets, respectively. Data on the principal exporters are not available.

Apparent U.S. consumption

Apparent U.S. consumption of watches rose from $1,079 million in 1980 to $1,165 million in 1981. It then declined to $966 million in 1982. In 1984, apparent U.S. consumption rose to $1,106 million, or by 6 percent over the $1,043 million recorded for 1983.

Effect on revenue

The proposed legislation would result in a loss of revenue. The extent of the loss is difficult to ascertain, however, because the duty collected on a watch imported under TSUS item 715.05 is composed of a duty assessed on the case, a duty assessed on the movement, and a duty assessed on the bracelet, if one is attached. The aggregate value of such duties is not reported. The duties collected on solid state watches under TSUS item 688.36 in 1984 amounted to $9.1 million. It does appear that since the bulk of apparent U.S. consumption of watches is comprised of imports, the revenue loss would be sizable.

Technical comments

The effective date should be changed to the fifteenth day following the date of enactment of the legislation to allow Customs and the ITC time to put the new tariff treatment into effect.

TABLE 1.—WATCHES: U.S. PRODUCERS' SHIPMENTS, EXPORTS, IMPORTS, AND APPARENT CONSUMPTION, 1980–84

[Dollar amounts in millions]

Year	Producers' shipments [1]	Exports	Imports	Apparent consumption	Ratio of imports to consumption (percent)
1980	$483	$18	$613	$1,079	56.8
1981	468	20	716	1,165	61.5
1982	404	16	578	966	59.8
1983 [2]	357	11	697	1,043	66.9
1984 [2]	268	7	845	1,106	76.4

[1] Includes product shipments in SIC product codes 38734 and 38736 less imported watch movements, modules and parts.
[2] Estimated.

Note: Data for producers' shipments for 1983 and 1984 were estimated from the 1982 Census of Manufactures and various Annual Survey of Manufactures.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

ATTACHMENT A

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1988)

SCHEDULE 7. - SPECIFIED PRODUCTS; MISCELLANEOUS AND NONTARIFF PRODUCTS
Part 2. - Optical Goods, Scientific and Professional Instruments, Watches, Clocks, and Timing Devices; Photographic Goods, Motion Pictures; Recordings and Recording Media

A S P	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
			Time switches with watch or clock movements, or with synchronous or subsynchronous motors				
	715.60	00	Valued not over $1.10 each	No	7.5¢ each + 8.8% ad val. + 3.4¢ for each jewel, if any	5.5¢ each + 6.4% ad val. + 2.5¢ for each jewel, if any	55¢ each + 65% ad val. + 25¢ for each jewel, if any
	715.62	00	Valued over $1.10 but not over $2.25 each	No	13¢ each + 8.8% ad val. + 3.4¢ for each jewel, if any	10¢ each + 6.4% ad val. + 2.5¢ for each jewel, if any	$1 each + 65% ad val. + 25¢ for each jewel, if any
	715.64	00	Valued over $2.25 but not over $5 each	No	20¢ each + 5.5% ad val. + 3.4¢ for each jewel, if any	15¢ each + 4% ad val. + 2.5¢ for each jewel, if any	$1.50 each + 65% ad val. + 25¢ for each jewel, if any
	715.66	00	Valued over $5 but not over $10 each	No	41¢ each + 5.5% ad val. + 3.4¢ for each jewel, if any	30¢ each + 4% ad val. + 2.5¢ for each jewel, if any	$3 each + 65% ad val. + 25¢ for each jewel, if any
	715.68	00	Valued over $10 each	No	61¢ each + 8.8% ad val. + 3.4¢ for each jewel, if any	45¢ each + 6.4% ad val. + 2.5¢ for each jewel, if any	$6.50 each + 65% ad val. + 25¢ for each jewel, if any
			Watch movements, assembled, without dials or hands, or with dials or hands whether or not assembled thereon				
			Having over 17 jewels				
	716.04-	05	Valued not over $15 each	No	$3.37 each		$10.75 each
	716.04	00	Valued over $15 each	No	$2.15 each		$10.75 each
			Having no jewels or not over 17 jewels				
			Not adjusted, not self-winding (or if a self-winding device cannot be incorporated therein), and not constructed or designed to operate for a period in excess of 47 hours without rewinding				
	715.09		Having no jewels or only 1 jewel		16¢ each		$1.50 each
			Not over 0.6 inch in width				
		10	Having a balance wheel and hairspring	No.			
		20	Other	No.			
			Over 0.6 but not over 0.9 inch in width				
		30	Having a balance wheel and hairspring	No.			
		40	Other	No.			
			Over 0.9 but not over 1.77 inches in width				
		50	Having a balance wheel and hairspring	No.			
		60	Other	No.			

CSP	Item	Stat Suffix	Articles	Units of Quantity	Rates of Duty 1	LDDC	2
			Watch movements, assembled, etc. (con.)				
			Having no jewels, etc. (con.)				
			Not adjusted, not self-winding, etc. (con.)				
	716.17		Having over 1 jewel but not over 7 jewels		72c each		$2.50 each
		10	Not over 0.6 inch in width				
			Having a balance wheel and hairspring	No.			
		21	Other	No.			
			Over 0.6 but not over 0.9 inch in width				
		31	Having a balance wheel and hairspring	No.			
		41	Other	No.			
			Over 0.9 but not over 1 inch in width				
		50	Having a balance wheel and hairspring	No.			
		61	Other	No.			
			Over 1 but not over 1.77 inches in width				
		71	Having a balance wheel and hairspring	No.			
		80	Other	No.			
			Having over 7 but not over 17 jewels				
			Valued not over $15 each				
	716.37	1	Not over 0.6 inch in width	No.	$1.80 each + 9c for each jewel over 7		$2.50 each + 15c for each jewel over 7
	716.38	1	Over 0.6 but not over 0.9 inch in width	No.	$1.35 each + 9c for each jewel over 7		$2.50 each + 15c for each jewel over 7
	716.39	1/	Over 0.9 but not over 1 inch in width	No.	$1.20 each + 9c for each jewel over 7		$2.50 each + 15c for each jewel over 7
	716.40	1/	Over 1 but not over 1.77 inches in width	No.	90c each + 9c for each jewel over 7		$2.50 each + 15c for each jewel over 7

1/ See subpart E statistical headnote 1(c).

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	LDDC	2
			Watch movements, assembled, etc. (con.):				
			Having no jewels, etc. (con.):				
			Not adjusted, not self-winding, etc. (con.):				
			Having over 7 but not over 17 jewels (con.):				
	716.45		Valued over $11 each		72c each + 4c for each jewel over 7		$2.50 each + 15c for each jewel over 7
		20	Having a balance wheel and hairspring	No.			
		40	Other	No.			
	716.- (see headnote 3(b))	1/	Adjusted or self-winding, whether or not adjusted, (or if a self-winding device can be incorporated therein), or constructed or designed to operate for a period in excess of 47 hours without rewinding	No. ✓	Column 1 base rate + 35c each if self-winding + 35c for each adjustment		Column 2 base rate + $1 each if self-winding + $1 for each adjustment
				No.			
			Clock movements, assembled, without dials or hands, or with dials or hands whether or not assemblies thereon:				
			Measuring less than 1.77 inches in width:				
			Not constructed or designed to operate for over 47 hours without rewinding:				
	720.02		Having no jewels or only 1 jewel		32c each	30c each	75c each
			Electric:				
		10	Battery operated	No.			
		20	Other	No.			
		30	Other	No.			
	720.04		Having over 1 jewel		55c each + 5.8c for each jewel over 7	53c each + 5.5c for each jewel over 7	$1.25 each + 15c for each jewel over 7
			Electric:				
		05	Battery operated	No.			
		25	Other	No.			
		45	Other	No.			
			Constructed or designed to operate for over 47 hours without rewinding:				
	720.06	00	Having no jewels or only 1 jewel	No.	64c each	60c each	$1.75 each
	720.08		Having over 1 jewel		88c each + 5.8c for each jewel over 7	85c each + 5.5c for each jewel over 7	$2.25 each + 15c for each jewel over 7
		10	Containing cut ruby jewels	No. ✓			
			suitable jewels	No.			
		60	Not containing suitable jewels	No.			
	720.09	00	If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)	No. ✓	Free		$2.25 each + 15c for each jewel over 7
			suitable jewels	No.			

1/ See subpart E statistical headnote 1(d).

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	LDDC	2
			Clock movements, assembled, etc. (con.)				
			Other clock movements:				
	720.10		Valued not over $1.10 each	.....	7.5c each + 4.8% ad val. + 3.4c for each jewel, if any	5.5c each + 6.4% ad val. + 2.5c for each jewel, if any	55c each + 65% ad val. + 25c for each jewel, if any
			Electric (including battery operated):				
		05	Battery operated	No.			
		25	Other	No.			
		50	Other	No.			
	720.12		Valued over $1.10 but not over $2.25 each	.....	13c each + 8.8% ad val. + 3.4c for each jewel, if any	10c each + 6.4% ad val. + 2.5c for each jewel, if any	$1 each + 65% ad val. + 25c for each jewel, if any
			Electric (including battery operated)				
		05	Battery operated	No.			
		25	Other	No.			
		50	Other	No.			
	720.14		Valued over $2.25 but not over $5 each	.....	20c each + 8.8% ad val. + 3.4c for each jewel, if any	15c each + 6.4% ad val. + 2.5c for each jewel, if any	$1.50 each + 65% ad val. + 25c for each jewel, if any
			Electric (including battery operated)				
		05	Battery operated	No.			
		25	Other	No.			
		50	Other	No.			
	720.16		Valued over $5 but not over $10 each	.....	41c each + 8.8% ad val. + 3.4c for each jewel, if any	30c each + 6.4% ad val. + 2.5c for each jewel, if any	$3 each + 65% ad val. + 25c for each jewel, if any
			Electric (including battery operated)				
		05	Battery operated	No.			
		25	Other	No.			
		50	Other	No.			
	720.18		Valued over $10 each	.....	61c each + 8.8% ad val. + 3.4c for each jewel, if any	45c each + 6.4% ad val. + 2.5c for each jewel, if any	$4.50 each + 65% ad val. + 25c for each jewel, if any
			Electric (including battery operated):				
		05	Battery operated	No.			
		25	Other	No.			
		50	Other	No.			
			Watch cases and parts thereof:				
			Wholly or almost wholly of gold or platinum or of both gold and platinum:				
	720.20	00	Cases	No.	20c each + 8.2% ad val.	13c each + 6% ad val.	75c each + 45% ad val.
			Parts:				
	720.21	00	Bezels, backs, and centers	No.	4c each + 6.8% ad val.	8% ad val.	75c each + 45% ad val.
	720.22	00	Other	No.	11% ad val.	8% ad val.	65% ad val.

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	1 LDDC	2
			Watch cases and parts thereof (con.):				
			Not wholly and not almost wholly of gold or platinum or of both gold and platinum:				
			Wholly or in part of silver, or containing gold or platinum, or set, or prepared to be set, with precious or semiprecious stones or with imitation gemstones:				
	720.24	00	Cases	No.	11c each + 8.3% ad val.	8c each + 6% ad val.	40c each + 45% ad val.
			Parts:				
	720.25	00	Bezels, backs, and centers	No.	5.5c each + 8.3% ad val.	4c each + 6% ac val.	20c each + 45% ad val.
	720.26	00	Other	X	8.3% ad val.	6% ad val.	45% ad val.
			Other:				
	720.28	00	Cases	No.	4.2c each + 8.9% ad val.	4c each + 8.5% ad val.	20c each + 45% ad val.
			Parts:				
	720.29	00	Bezels, backs, and centers	No.	2.1c each + 8.9% ad val.	2c each + 8.5% ad val.	10c each + 45% ad val.
	720.30	00	Other	X	8.5% ad val.	8.1% ad val.	45% ad val.
			Clock cases, cases for clock switches or for other apparatus provided for in this subpart, and parts of the foregoing cases:				
			Clock cases and parts thereof:				
	720.32		Over 50 percent of metal by weight and wholly or in part of precious metal		10.2% ad val.	7.6% ad val.	60% ad val.
		20	Cases	No.			
		40	Parts	X			
			Other:				
	720.33	00	Outer cases for travel clocks	No.	5.5% ad val.	4% ad val.	45% ad val.
	720.34		Other		8.6% ad val.	6.9% ad val.	45% ad val.
		20	Cases	No.			
		40	Parts	X			
	720.36	00	Other cases and parts	X	8.3% ad val.	6% ad val.	45% ad val.
			Dials and parts thereof:				
			Watch and clock dials:				
	720.40		Under 1.77 inches in width		0.6c each + 12.4% ad val.	0.5c each + 9% ad val.	5c each + 45% ad val.
		20	Digital	No.			
		40	Other	No.			
	720.42	00	1.77 inches or more in width	No.	8.1% ad val.	6.6% ad val.	30% ad val.
	720.44		Other		13.8% ad val.	10% ad val.	50% ad val.
		20	Digital	X			
		40	Other	X			
	720.60	00	Jewels, unset, suitable for use for antifriction purposes in any watch or clock movement, or in any scientific instrument, or similar precision mechanism	No.	1.3% ad val.	Free	10% ad val.
			Plates:				
	720.65	00	Watch movement bottom or pillar plates or their equivalent	No.	One-half the column 1 duty for the complete movement for which suitable		One-half the column 2 duty for the completed movement for which suitable

ATTACHMENT B

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

Heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty		
				1		2
				General	Special	
9101		Wrist watches, pocket watches and other watches, including stop watches, with case of precious metal or of metal clad with precious metal:				
		Wrist watches, battery powered, whether or not incorporating a stop watch facility:				
9101.11		With mechanical display only:				
9101.11.40	00	having no jewels or only one jewel in the movement	No.	51¢ each + 6.2½ on the case and strap, band or bracelet + 3.3% on the battery		$2.25 each + 45% on the case + 80% on the strap, band or bracelet + 35% on the battery
9101.11.80	00	Other	No.	87¢ each + 6.2½ on the case and strap, band or bracelet + 3.3% on the battery		$3.25 each + 45% on the case + 80% on the strap, band or bracelet + 35% on the battery
9101.12.00	00	With opto-electronic display only	No.	3.9% on the movement, case and strap, band or bracelet + 3.3% on battery		35%
9101.19		Other:				
9101.19.40	00	having no jewels or only one jewel in the movement	No.	51¢ each + 6.2½ on the case and strap, band or bracelet + 3.3% on the battery		$2.25 each + 45% on the case + 80% on the strap, band or bracelet + 35% on the battery
9101.19.80	00	Other	No.	87¢ each + 6.2½ on the case and strap, band or bracelet + 3.3% on the battery		$3.25 each + 45% on the case + 80% on the strap, band or bracelet + 35% on the battery

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final ATN concession rates of duty)

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9101 (con.)		Wrist watches, pocket watches and other watches, including stop watches, with cases of precious metal or of metal clad with precious metal (con.):				
		Other wrist watches, whether or not incorporating a stop watch facility:				
9101.21		With automatic winding:				
9101.21.40	00	With over 17 jewels in the movement	No	$2.30 each + 6.2½% on the case and strap, band or bracelet		$11.50 each + 45% on the case + 8½% on the strap, band or bracelet
9101.21.80	00	Other	No	$2.30 each + 6.2½% on the case and strap, band or bracelet		$5.75 each + 45% on the case + 8½% on the strap, band or bracelet
9101.29		Other:				
9101.29.10	00	Having no jewels or only one jewel in the movement	No	51¢ each + 6.2½% on the case and strap, band or bracelet		$2.25 each + 45% on the case + 8½% on the strap, band or bracelet
9101.29.20	00	Having over 1 jewel but not over 7 jewels in the movement	No	87¢ each + 6.2½% on the case and strap, band or bracelet		$3.25 each + 45% on the case + 8½% on the strap, band or bracelet
		Having over 7 jewels but not over 17 jewels in the movement:				
		With movement valued not over $15 each:				
9101.29.30	00	With movement measuring not over 15.2mm	No	$2.85 each + 6.2½% on the case and strap, band or bracelet		$4.75 each + 45% on the case + 8½% on the strap, band or bracelet
9101.29.40	00	With movement measuring over 15.2mm	No	$2.40 each + 6.2½% on the case and strap, band or bracelet		$4.75 each + 45% on the case + 8½% on the strap, band or bracelet
9101.29.50	00	With movement valued over $15 each	No	$1.27 each + 6.2½% on the case and strap, band or bracelet		$4.75 each + 45% on the case + 8½% on the strap, band or bracelet
9101.29.60	00	Having over 17 jewels in the movement	No	$2.30 each + 6.2½% on the case and strap, band or bracelet		$11.50 each + 45% on the case + 8½% on the strap, band or bracelet

[1] 91-4

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9101 (con.)		Wrist watches, pocket watches and other watches, including stop watches, with case of precious metal or of metal clad with precious metal (con.):				
		Other:				
9101.91		[1] Battery powered:				
9101.91.20	00	With opto-electronic display only...	No.....	3.9% on the movement and case + 5.3% on the battery [1]		35%
		Other:				
9101.91.40	00	Having no jewels or only one jewel in the movement.....	No.....	51c each + 6% on the case + 5.3% on the battery [1]		$2.25 each + 45% on the case + 35% on the battery [1]
9101.91.80	00	Other.....	No.....	87c each + 6% on the case + 5.3% on the battery [1]		$3.25 each + 45% on the case + 35% on the battery [1]
9101.99		Other:				
9101.99.20	00	Having no jewels or not over 7 jewels in the movement.....	No.....	51c each + 6% on the case		$2.25 each + 45% on the case
		Having over 7 but not over 17 jewels in the movement:				
9101.99.40	00	With movement valued not over $15 each.....	No.....	$1.95 each + [1] 6% on the case		$4.75 each + [1] 45% on the case
9101.99.60	00	With movement valued over $15 each.....	No.....	$1.27 each + [1] 6% on the case		$4.75 each + [1] 45% on the case
9101.99.80	00	Having over 17 jewels in the movement.....	No.....	$2.30 each + 6% on the case		$11.50 each + 45% on the case

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

Heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9102		Wrist watches, pocket watches and other watches, including stop watches, other than those of heading 9101:				
		Wrist watches, battery powered, whether or not incorporating a stop watch facility:				
9102.11		With mechanical display only:				
		Having no jewels or only one jewel in the movement:	—			
		With strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated:				
9102.11.10	00	With gold- or silver-plated case	No.	44c each + 6% on the case + 14% on the strap, band or bracelet + 5.3% on the battery		$1.90 each + 45% on the case + 110% on the strap, band or bracelet + 35% on the batter
9102.11.25	00	Other	No.	40c each + 8.5% on the case + 14% on the strap, band or bracelet + 5.3% on the battery		$1.70 each + 45% on the case + 110% on the strap, ban or bracele + 35% on the batter
		Other:				
9102.11.30	00	With gold- or silver-plated case	No.	44c each + 6% on the case + 2.8% on the strap, band or bracelet + 5.3% on the battery		$1.90 each 45% on the case + 35% on the strap, ban or bracele + 35% on t battery
9102.11.45	00	Other	No.	40c each + 8.5% on the case + 2.8% on the strap, band or bracelet + 5.3% on the battery		$1.70 each 45% on the case + 35% on the strap, ban or bracel + 35% on t battery
		Other:				
		With a strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated:				
9102.11.50	00	With gold- or silver-plated case	No.	80c each + 6% on the case + 14% on the strap, band or bracelet + 5.3% on the battery		$2.90 each 45% on the case + 11 on the strap, ba or bracel + 35% on battery
9102.11.65	00	Other	No.	76c each + 8.5% on the case + 14% on the strap, band or bracelet + 5.3% on the battery		$2.70 each 45% in th case + 11 on the strap, ba or brace + 35% on the batte

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

91-9

Heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9102 (con.)		Wrist watches, pocket watches and other watches, including stop watches, other than those of heading 9101 (con.): Wrist watches, battery powered, whether or not incorporating a stop watch facility (con.):				
9102.11 (con.)		With mechanical display only (con.):				
		Other (con.)				
		Other:				
9102.11.70	00	With gold- or silver-plated case	No.	80c each + 6% on the case + 2.8% on the strap, band or bracelet + 5.3% on the battery		$2.90 each + 45% on the case + 35% on the strap, band or bracelet + 35% on the battery
9102.11.95	00	Other	No.	74c each + 8.5% on the case + 2.8% on the strap, band or bracelet + 5.3% on the battery		$2.70 each + 45% on the case + 35% on the strap, band or bracelet + 35% on the battery
9102.12.00	00	With opto-electronic display only	No.	3.9% on the movement, case and strap, band or bracelet + 5.3% on the battery		35%
9102.19		Other:				
		Having no jewels or only one jewel in the movement:				
9102.19.20	00	With strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated	No.	60c each + 6% on the case + 14% on the strap, band or bracelet + 5.3% on the battery		$1.70 each + 45% on the case + 110% on the strap, band or bracelet + 35% on the battery
9102.19.40	00	Other	No.	40c each + 6% on the case + 2.8% on the strap, band or bracelet + 5.3% on the battery		$1.70 each + 45% on the case + 35% on the strap, band or bracelet + 35% on the battery

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

91-6

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty		
				1		2
				General	Special	
9102 (con.)		Wrist watches, pocket watches and other watches, including stop watches, other than those of heading 9101 (con.):				
		(1) Wrist watches, battery powered, whether or not incorporating a stop watch facility (con.):				
		Other (con.):				
		Other:				
9102.19.40	00	With strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated	No.	74c each + 6% on the case + 14% on the strap, band or bracelet + 5.3% on the battery (1)		$2.70 each + 45% on the case + 110% on the strap, band or bracelet + 35% on the battery (1)
9102.19.80	00	Other	No.	74c each + 6% on the case + 2.8% on the strap, band or bracelet + 5.3% on the battery (1)		$2.70 each + 45% on the case + 35% on the strap, band or bracelet + 35% on the battery (1)
		Other wrist watches, whether or not incorporating a stop watch facility:				
9102.21		With automatic winding:				
9102.21.20	00	With over 17 jewels in the movement: With strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated	No.	$2.19 each + 6% on the case + 14% on the strap, band or bracelet		$10.95 each + 45% on the case + 110% on the strap, band or bracelet
9102.21.40	00	Other	No.	$2.19 each + 6% on the case + 2.8% on the strap, band or bracelet		$10.95 each + 45% on the case + 35% on the strap, band or bracelet
		Other:				
9102.21.60	00	With strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated	No.	$2.19 each + 6% on the case + 14% on the strap, band or bracelet		$5.20 each + 45% on the case + 110% on the strap, band or bracelet
9102.21.80	00	Other	No.	$2.19 each + 6% on the case + 2.8% on the strap, band or bracelet		$5.20 each + 45% on the case + 35% on the strap, band or bracelet

91-10

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9102 (con.)		Wrist watches, pocket watches and other watches, including stop watches, other than those of heading 9101 (con.):				
		Other wrist watches, whether or not incorporating a stop watch facility (con.):				
9102.29		Other:				
		Having no jewels or only one jewel in the movement:				
9102.29.05	00	With strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated	No	40c each + 6% on the case + 14% on the strap, band or bracelet		$1.70 each + 45% on the case + 110% on the strap, band or bracelet
9102.29.10	00	Other	No	40c each + 6% on the case + 2.8% on the strap, band or bracelet		$1.70 each + 45% on the case + 33% on the strap, band or bracelet
		Having over one jewel but not over 7 jewels in the movement:				
9102.29.15	00	With strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated	No	76c each + 6% on the case + 14% on the strap, band or bracelet		$2.70 each + 45% on the case + 110% on the strap, band or bracelet
9102.29.20	00	Other	No	76c each + 6% on the case + 2.8% on the strap, band or bracelet		$2.70 each + 45% on the case + 33% on the strap, band or bracelet

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty		
				1		2
				General	Special	
9102 (con.)		Wrist watches, pocket watches and other watches, including stop watches, other than those of heading 9101 (con.):				
9102.29 (con.)		Other wrist watches, whether or not incorporating a stop watch facility (con.):				
		Other (con.):				
		Having over 7 but not over 17 jewels in the movement:				
		With movement valued not over $15 each:				
		With movement measuring not over 15.2mm:				
9102.29.25	00	With straps, bands or bracelets of textile material or of base metal, whether or not gold- or silver-plated	No.	$2.74 each + 6% on the case + 14% on the strap, band or bracelet		$4.20 each + 6.5% on the case + 110% on the strap, band or bracelet
9102.29.30	00	Other	No.	$2.74 each + 6% on the case + 2.8% on the strap, band or bracelet		$4.20 each + 6.5% on the case + 35% on the strap, band or bracelet
		With movement measuring over 15.2mm:				
9102.29.35	00	With straps, bands or bracelets of textile material or of base metal, whether or not gold- or silver-plated	No.	$2.29 each + 6% on the case + 14% on the strap, band or bracelet		$4.20 each + 6.5% on the case + 110% on the strap, band or bracelet
9102.29.60	00	Other	No.	$2.29 each + 6% on the case + 2.8% on the strap, band or bracelet		$4.20 each + 6.5% on the case + 35% on the strap, band or bracelet

91-12

Heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9102 (con.)		Wrist watches, pocket watches and other watches, including stop watches, other than those of heading 9101 (con.):				
		Other wrist watches, whether or not incorporating a stop watch facility (con.):				
9102.29 (con.)		Other (con.):				
		Having over 7 but not over 17 jewels in the movement (con.):				
		With movement valued over $15 each:				
9102.29.45	00	With strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated	No.	$1.16 each + 6% on the case + 14% on the strap, band or bracelet		$4.20 each + 45% on the case + 110% on the strap, band or bracelet
9102.29.50	00	Other	No.	$1.16 each + 6% on the case + 2.8% on the strap, band or bracelet		$4.20 each + 45% on the case + 35% on the strap, band or bracelet
		Having over 17 jewels in the movement:				
9102.29.55	00	With strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated	No.	$2.19 each + 6% on the case + 14% on the strap, band or bracelet		$10.95 each + 45% on the case + 110% on the strap, band or bracelet
9102.29.60	00	Other	No.	$2.19 each + 6% on the case + 2.8% on the strap, band or bracelet		$10.95 each + 45% on the case + 35% on the strap, band or bracelet

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

Heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9102 (con.)		Wrist watches, pocket watches and other watches, including stop watches, other than those of heading 9101 (con.):				
9102.91		Other: Battery powered:				
9102.91.20	00	With opto-electronic display only...	No.....	3.9% on the movement and case + 5.3% on the battery [1]		35%
		Other:				
9102.91.40	00	Having no jewels or only one jewel in the movement.....	No.....	40c each + 6% on the case + 5.3% on the battery [1]		$1.70 each + 45% on the case + 35% on the battery [1]
9102.91.80	00	Other.....	No.....	70c each + 6% on the case + 5.3% on the battery [1]		$2.70 each + 45% on the case + 35% on the battery [1]
9102.99		Other:				
9102.99.20	00	Having no jewels or not over 7 jewels in the movement.....	No.....	40c each + 6% on the case		$1.70 each + 45% on the case
		Having over 7 but not over 17 jewels in the movement:				
9102.99.40	00	With movement valued not over $15 each.....	No.....	$1.84 each + [1] 6% on the case		$4.20 each + [1] 45% on the case
9102.99.60	00	With movement valued over $15 each.....	No.....	$1.16 each + [1] 6% on the case		$4.20 each + [1] 45% on the case
9102.99.80	00	Having over 17 jewels in the movement.....	No.....	$2.19 each + 6% on the case		$10.95 each + 45% on the case

H.R. 2029[12]

Section-by-section analysis

H.R. 2029, if enacted, would eliminate the special marking requirements, imposed in headnote 4 to schedule 7, part 2E of the Tariff Schedules of the United States (TSUS), on watche and clock movements, cases, and dials. The existing headnote provides that "any movement, case, or dial provided for in this subpart, whether imported separately or attached to an article provided for in this subpart, shall not be permitted to be entered unless conspicuously and indelibly marked . . . ."

Section 1 of the bill would strike out headnote 4 to schedule 7, part 2E and redesignate headnotes 5 and 6 as headnotes 4 and 5, respectively. It would also strike out the references to headnote 4 contained in the current headnote 5.

Section 2 would amend general headnote 3(a)(i) of the TSUS to reflect the renumbering of the headnotes in schedule 7, part 2E.

Section 3 would make these amendments effective as of the 15th day after the date of enactment of the Act.

Background

Description and uses.—Watches, as defined in headnote 2(a) to schedule 7, part 2E of the TSUS, are timepieces suitable for wearing or carrying on or about the person. The most common type of watch is the wristwatch, which is affixed to the wrist by means of a strap or bracelet. Watches may also be carried in the pocket, set in rings and worn on the finger, worn on chains around the neck or pinned to the outer clothing. While viewed primarily as functional articles, many watches are fashion items and are sometimes considered articles of jewelry. Clocks are timepieces not designed to be carried on or about the person. They vary widely in appearance, depending on styling and intended use.

The timekeeping function of a watch or clock is performed by its movement. A movement can be either mechanical or electromechanical.[13] Mechanical movements have a hairspring and a balance wheel which is oscillated by power supplied from a mainspring or battery. The oscillation furnishes motive power for the mechanical operation of the timepiece through a system of gears and levers. Electromechanical movements use a synchronous motor with a quartz time base powered by either standard alternating current or by battery. The timekeeping is regulated by the frequency rate (cycles per second) of a generator at the source of the current.

The major components of a watch are its case and movement. Headnote 2(b) to schedule 7, part 2E of the TSUS defines a watch movement as "a timepiece movement measuring less than 1.77 inches in width and less than 0.50 inch in thickness." The two principal types of watch movements are mechanical and quartz analog.[14] Mechanical watch movements are of two types; pin lever and jeweled lever. Pin-lever movements usually have not more than one jewel. Jeweled-lever movements employ two or more synthetic jewels as bearings to alleviate friction in moving parts. The quartz analog movement is more accurate than other watch movements due to the quartz crystal time base and the use of fewer moving parts.

The movement in a clock may be either a watch or clock movement. A clock movement is defined in headnote 2(c) to schedule 7, part 2E as "any movement or mechanism, other than 'watch movements' . . . intended or suitable for measuring time." The basic types of clock movements are mechanical and electromechanical. Mechanical clock movements may be key wound, as in some chime and alarm clocks, or weight driven, as in grandfather clocks. Electromechanical movements are found in almost all types of clocks.

The major components of a clock are its dial, case, and movement. Dials may be wooden, metal, plastic, paper, hardboard, or enamel. The case serves as the housing for the movement and is usually made of wood, metal, or plastic, depending on the type of clock.

---

[12] A companion bill, S. 854, 99th Congress, is currently pending before the Senate Finance Committee.

[13] In a March 25, 1982 decision by the U.S. Court of Customs and Patent Appeals (*U.S. v. Texas Instruments Inc.*, 69 CCPA 136 (1982)), it was decided that solid state watch modules do not fit the TSUS definition of a watch movement and, therefore, are not classifiable as watches under TSUS item 715.05. Solid state watches and modules were reclassified as "electrical articles and electrical parts, not specially provided for," under then TSUS item 688.45. New item 688.36 was created for solid state watches, clocks, and modules by Executive Order No. 12371, effective July 13, 1982. Since the provisions of this legislation do not apply to solid state articles, this report refers only to mechanical or electromechanical timepieces.

[14] There are also tuning fork and electric movements. However, neither is known to be currently produced.

Purpose.—The purchase of a particular watch or clock is partly dependent on the reputation of the country of manufacture for quality. Since the consumer rarely inspects watch and clock components, the labeling of internal parts of a timepiece offers no perceptible advantage to the consumer in differentiating quality. Accordingly, this legislation purports to reduce regulatory requirements which provide no apparent advantage to the consumer.

Prior import investigations

The Commission was requested by the United States Trade Representative to include clock cases (TSUS item 720.34) in investigation Nos. TA-503(a)-12 and 332-187, President's List of Articles Which May be Designated or Modified as Eligible Articles for Purposes of the U.S. Generalized System of Preferences (GSP),[15] the 1984 annual review of GSP-eligible articles. The result of this annual review have not yet been released.

Comparison with present law

Tariff treatment under the TSUS.—The current column 1 [16], least developed developing countries (LDDC),[17] and column 2 [18] duty rates for watches, clocks, and components are shown in Attachment A. Articles imported under items 715.20, 715.55, 720.80, 720.92, and 721.10 may qualify for duty-free treatment under the GSP. Articles produced in beneficiary Caribbean countries may qualify for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).[19] However, watches and watch parts containing any material that is the product of a country to which column 2 rates of duty apply are not eligible for the CBERA.

The staged duty reductions, negotiated in the Tokyo round of Multilateral Trade Negotiations (MTN) for certain of the TSUS items involved in this legislation, are shown in Attachment B.

The duty on watches is composed of a duty assessed on the case and a duty assessed on the movement. Duty is also assessed on the bracelet if one is attached. The classification for duty purposes of a watch case depends upon the material of which it is made. The classification of an assembled watch movement is based on several quality features associated with a conventional watch: (1) the number of jewels, (2) the number of adjustments (for position, temperature, and isochronism), (3) size (width and thickness), and (4) how long it runs without rewinding.

Watches and watch movements, which were produced or manufactured in an insular possession of the United States, are eligible for duty-free treatment if they conform to the quota and other requirements of headnote 6 to schedule 7, part 2E.

Headnote 5 to schedule 7, part 2E provides that combination articles containing watch or clock movements are classifiable under the provision applicable to such combination articles. However, the movement and dial, if any, are assessed duty separately at the rate that would have applied if each had been imported separate-

---

[15] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[16] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[17] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[18] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[19] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

ly. The movement and its dial are also subject to the same special marking requirements provided for in headnote 4.

The classification of imported clocks containing movements depends on the size of the movement and the value of the article.[20] Clocks with watch movements or clock movements under 1.77 inches in width are assessed separate duties on the cases and the movements. Other clocks are assessed duty according to the value range (not over $1.10, over $1.10 but not over $2.25, and so forth) under which they fall.[21] Assembled clock movements are classified according to the length of time required before rewinding, the number of jewels, and the value of the article. Clock cases are classified based on the material of which the case is made. The classification of other timing devices with watch or clock movements depends upon the value of the article.

Tariff treatment under the proposed Harmonized System (HS).[22]—The Classification of watches, clocks, and parts thereof under the HS is shown in Attachment C.[23]

Structure of the domestic industry

The quartz analog movement and solid state electronic module have revolutionized watch and clock technology since they appeared on the market in the mid-1970's. These movements are more accurate than others due to their quartz crystal time base and the use of few or no moving parts.

Since the late 1970's, the domestic watch and watch movement industry has, for the most part, moved production offshore to areas (primarily the Far East) with lower labor costs. Currently, domestic watch manufacturing consists primarily of assembling components produced abroad. Procedures performed include attaching dials and hands to movement assemblies, encasing movements, regulating, packaging, and marketing. There are an estimated 150 companies performing these types of operations.

Part for watch movements are usually mass produced. The actual assembly of a movement is labor intensive, since certain procedures and adjustments must be performed manually. More extensive manual work is needed to assemble a mechanical movement than a quartz analog movement due to the greater number of parts in the former.

Domestic clock production consists primarily of assembling imported movements into domestically-manufactured cases. The U.S. industry consists of two groups of producers. The primary group is comprised of firms that purchase watch or clock movements which are inserted into cases produced in its establishments. This group produces clocks cased in wood, involving a labor-intensive operation, or plastic, a more capital-intensive operation. The second group consists of firms that primarily produce furniture. These firms usually produce floor clocks as orders are received and do not have a continuous production run. Because of the availability of hardwoods and the popularity of wooden clocks, domestic producers concentrate on wooden wall, floor, and mantel clocks. Injection molded cases are made domestically for plastic-cased clocks. There are an estimated 150 domestic companies manufacturing clocks.

Data from the Bureau of Labor Statistics shows that employment in the watch and clock manufacturing industry (SIC 3873) declined steadily from 22,300 in 1980 to 16,100 in 1983. In 1984 employment rose to 16,400, or by 2 percent. Workers in the actual manufacturing process are largely semiskilled and nonskilled.

Some companies manufacture both watches and clocks because of the similar assembly work involved. The largest 5 companies account for an estimated 70 to 80 percent of production. Although the majority of watch and clock producers are located in the New York and Chicago areas, the remaining companies are located in approximately 25 states. Major watch and/or clock companies and their locations include:

---

[20] Clocks certified for use in civil aircraft and any clocks or parts that are Canadian articles and original motor-vehicle equipment may be imported free of duty.

[21] Except standard marine chronometers with spring-detent escapements, which are classified under a separate TSUS item.

[22] The Harmonized System is intended to serve as the single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

[23] Source: Trade Policy Staff Committee, "Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System" (September 1984).

Timex Corp.
Park Road Extension
P.O. Box 2126
Waterbury, CT 06720

Seiko Time Corp.
640 5th Avenue
New York, NY 10019

Bulova Watch Company
75–20 Astoria Blvd.
Jackson Heights, NY 11370

Advance Watch Co.
26400 E Eight Mile Road
Southfield, MI 38034

Casio Inc. Timepiece Div.
15 Gardener Road
Fairfield, NJ 07009

Armitron Corp.
29–10 Thompson Avenue
Long Island City, NY 11101

Spartus
13856 N. Oakton Street
Skokie, IL 60076

Ridgeway Clocks
Gravely Furniture Co., Inc.
P.O. Box 407, Road #902
Ridgeway, VA 24148

Citizen Watch Company
of America, Inc.
1200 Wall Street, NW
Lyndhurst, NJ 07071

Longines-Wittnauer Watch Co.
145 Huguenot
New Rochelle, NY 10802

Swatch Watch
608 5th Avenue
New York, NY 10017

Helbros Watches Inc.
330 W. 34th Street
New York, NY 10001

Westclox Div of Talley
520 Gutheridge Tech Park Blvd.
Norcross, Ga 30092

Howard Miller Clock Co.
860 E. Main Street
Zeeland, MI 49464

Burwood Industries
4655 W. Chase Avenue
Chicago, IL 60646

Elgin and Waltham
1800 W. Fullerton Avenue
Chicago, IL 60614

Domestic production

The estimated value of U.S. producer's shipments of watches, clocks and components decreased from $996 million in 1980 to $908 million in 1982 (table 1). It then rose of $941 million in 1983 and dropped to $841 million in 1984, or by 11 percent. Quantity data are not available due to the product mix included in the legislation.

U.S. imports

U.S. imports of watches, clocks, and components, in terms of value, increased from $1,025 million in 1980 to $1,227 million in 1981. Such imports then dropped to $658 million in 1983 and increased to $887 million in 1984, or by 34 percent. The leading supplier of watches, clocks, and components in 1984 was Japan, accounting for $347 million, or 39 percent of the total. Switzerland and Hong Kong followed with $180 million and $164 million (20 and 19 percent) respectively. Data concerning the five largest importers are business confidential.

U.S. exports

U.S. exports of watches, clocks, and components, in terms of value, increased from $67 million in 1980 to $84 million in 1981. Since then, they have steadily declined to $60 million in 1984, or by 30 percent since 1981. The Philippines was the leading market, receiving $13 million, or 22 percent of the total in 1984. Canada and Taiwan were the second and third largest markets, receiving $11 million and $6 million (18 and 10 percent) respectively. Data on the principal exporters are not available.

Apparent U.S. consumption

Apparent U.S. consumption rose from $1,954 million in 1980 to $2,094 million in 1981. It then declined to $1,534 million in 1983. Apparent U.S. consumption rose 9 percent in 1984 over that in 1983, to $1,669 million.

Effect on revenue

The proposed legislation affects only the special marking requirements for watches, clocks and components and therefore would not affect annual customs revenue.

TABLE 1.—WATCHES AND CLOCKS AND COMPONENTS THEREOF: U.S. PRODUCERS' SHIPMENTS, EXPORTS, IMPORTS, AND APPARENT CONSUMPTION, 1980–84

[Dollar amounts in millions]

Year	Producers' shipments [1]	Exports	Imports	Apparent consumption	Ratio of imports to consumption (percent)
1980	$996	$67	$1,025	$1,954	52.5
1981	952	84	2,227	2,094	58.6
1982	908	75	784	1,616	48.5
1983 [2]	941	65	658	1,534	42.9
1984 [2]	841	60	887	1,669	53.2

[1] Includes product shipments in SIC 3873 less imported watch and clock movements, modules and parts.
[2] Estimated.

Note: Producers' shipments, exports, and imports include watches, clocks, watch movements, clock movements, watchcases and parts, clockcases and parts, and parts for watches and clocks. Data for producers' shipments for 1983 and 1984 were estimated from the 1982 Census of Manufactures and various Annual Survey of Manufactures.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

ATTACHMENT A

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985)

GSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
	715.05 (see headnote 3(a))	00	Watches	No.	The column 1 rates applicable to the cases, plus the column 1 rates applicable to the movements, if such cases and movements were imported separately		The column 2 rates applicable to the cases, plus the column 2 rates applicable to the movements, if such cases and movements were imported separately
			Clocks:				
	715.15 (see headnote 3(a))	00	With watch movements; or with clock movements measuring less than 1.77 inches in width	No.	The column 1 rates applicable to the cases, plus the column 1 rates applicable to the movements, if such cases and movements were imported separately		The column 2 rates applicable to the cases, plus the column 2 rates applicable to the movements, if such cases and movements were imported separately
	715.16 (see headnote 3(a))	00	If certified for use in civil aircraft (see headnote 3, part 6C, schedule 0)	No.	Free		The column 2 rates applicable to the cases, plus the column 2 rates applicable to the movements, if such cases and movements were imported separately
			With other movements:				
A	715.20	00	Standard marine chronometers having spring-detent escapements	No.	39¢ each + 9.9% ad val. + 3.3¢ for each jewel, if any	34¢ each + 5% ad val. + 2¢ for each jewel, if any	$6.50 each + 65% ad val. + 22¢ for each jewel, if any
			Other clocks:				
	715.23		Valued not over $1.10 each		8.5¢ each + 9.6% ad val. + 3.7¢ for each jewel, if any	9.5¢ each + 6.4% ad val. + 2.5¢ for each jewel, if any	55¢ each + 65% ad val. + 25¢ for each jewel, if any
			Electric (including battery operated):				
		05	Battery operated	No.			
		25	Other	No.			
		50	Other	No.			
	715.27		Valued over $1.10 but not over $2.25 each		13¢ each + 8.8% ad val. + 3.4¢ for each jewel, if any	10¢ each + 6.4% ad val. + 2.5¢ for each jewel, if any	$1 each + 65% ad val. + 25¢ for each jewel, if any
			Electric (including battery operated):				
		05	Battery operated	No.			
		25	Other	No.			
		50	Other	No.			

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

GRP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	LDDC	2
			Clocks (con.):				
			With other movements (con.):				
			Other clocks (con.):				
	715.29		Valued over $2.25 but not over $3 each...	.....	30¢ each + 6.8% ad val. + 3.4¢ for each jewel, if any	15¢ each + 6.4% ad val. + 2.5¢ for each jewel, if any	$1.50 each + 65% ad val. + 35¢ for each jewel, if any
			Electric (including battery operated):				
		05	Battery operated...	No.			
		25	Other...	No.			
		50	Other...	No.			
	715.31		Valued over $3 but not over $10 each.....	.....	41¢ each + 6.8% ad val. + 3.4¢ for each jewel, if any	30¢ each + 6.4% ad val. + 2.5¢ for each jewel, if any	$3 each + 65% ad val. + 25¢ for each jewel, if any
			Electric (including battery operated):				
		05	Battery operated...	No.			
		25	Other...	No.			
		50	Other...	No.			
	715.33		Valued over $10 each.....	.....	41¢ each + 6.8% ad val. + 3.4¢ for each jewel, if any	45¢ each + 6.4% ad val. + 2.5¢ for each jewel, if any	$4.50 each + 65% ad val. + 25¢ for each jewel, if any
			Electric (including battery operated):				
		05	Battery operated...	No.			
		25	Other...	No.			
		50	Other...	No.			
			Apparatus with watch or clock movements or with synchronous motors, for recording the time of day, or for measuring, recording, or otherwise indicating intervals of time:				
	715.40	00	Pigeon timers...	No.....	49¢ each + 7.1% ad val. + 2.7¢ for each jewel, if any	36¢ each + 5.2% ad val. + 2¢ for each jewel, if any	$4.50 each + 65% ad val. + 25¢ for each jewel, if any
			Other:				
	715.45	00	Valued not over $1.10 each...	No.....	7.5¢ each + 6.8% ad val. + 3.4¢ for each jewel, if any	5.5¢ each + 6.4% ad val. + 2.5¢ for each jewel, if any	55¢ each + 65% ad val. + 25¢ for each jewel, if any
	715.47	00	Valued over $1.10 but not over $2.25 each.....	No.....	13¢ each + 6.8% ad val. + 3.4¢ for each jewel, if any	10¢ each + 6.4% ad val. + 2.5¢ for each jewel, if any	$1 each + 65% ad val. + 25¢ for each jewel, if any
	715.49	00	Valued over $2.25 but not over $3 each.....	No.....	20¢ each + 6.8% ad val. + 3.4¢ for each jewel, if any	15¢ each + 6.4% ad val. + 2.5¢ for each jewel, if any	$1.50 each + 65% ad val. + 25¢ for each jewel, if any
	715.51	00	Valued over $3 but not over $10 each.....	No.....	41¢ each + 6.8% ad val. + 3.4¢ for each jewel, if any	30¢ each + 6.4% ad val. + 2.5¢ for each jewel, if any	$3 each + 65% ad val. + 25¢ for each jewel, if any
			Valued over $10 each:				
A	715.53	00	Time locks...	No.....	41¢ each + 9.6% ad val. + 3.4¢ for each jewel, if any	45¢ each + 7% ad val. + 2.5¢ for each jewel, if any	$4.50 each + 65% ad val. + 25¢ for each jewel, if any
	715.57	00	Other...	No.....	41¢ each + 9.6% ad val. + 3.4¢ for each jewel, if any	45¢ each + 7% ad val. + 2.5¢ for each jewel, if any	$4.50 each + 65% ad val. + 25¢ for each jewel, if any

Note: For explanation of the symbol "A" or "A*" in the column entitled "GRP", see general headnote 3(a).

C S P	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	LDDC	2
			Time switches with watch or clock movements, or with synchronous or subsynchronous motors:				
	715.60	00	Valued not over $1.10 each	No.	7.5¢ each + 8.8% ad val. + 3.4¢ for each jewel, if any	3.5¢ each + 6.4% ad val. + 2.3¢ for each jewel, if any	35¢ each + 45% ad val. + 25¢ for each jewel, if any
	715.62	00	Valued over $1.10 but not over $2.25 each	No.	13¢ each + 8.8% ad val. + 3.4¢ for each jewel, if any	10¢ each + 6.4% ad val. + 2.3¢ for each jewel, if any	$1 each + 45% ad val. + 25¢ for each jewel, if any
	715.64	00	Valued over $2.25 but not over $5 each	No.	20¢ each + 5.3% ad val. + 3.4¢ for each jewel, if any	15¢ each + 4% ad val. + 2.3¢ for each jewel, if any	$1.50 each + 45% ad val. + 25¢ for each jewel, if any
	715.66	00	Valued over $5 but not over $10 each	No.	41¢ each + 5.3% ad val. + 3.4¢ for each jewel, if any	30¢ each + 4% ad val. + 2.3¢ for each jewel, if any	$3 each + 45% ad val. + 25¢ for each jewel, if any
	715.68	00	Valued over $10 each	No.	61¢ each + 8.8% ad val. + 3.4¢ for each jewel, if any	45¢ each + 6.4% ad val. + 2.3¢ for each jewel, if any	$6.50 each + 45% ad val. + 25¢ for each jewel, if any
			Watch movements, assembled, without dials or hands, or with dials or hands whether or not assembled thereon:				
			Having over 17 jewels:				
	716.04	00	Valued not over $15 each	No.	$3.37 each		$10.75 each
	716.06	00	Valued over $15 each	No.	$2.15 each		$10.75 each
			Having no jewels or not over 17 jewels:				
			Not adjusted, not self-winding (or if a self-winding device cannot be incorporated therein), and not constructed or designed to operate for a period in excess of 47 hours without rewinding:				
	716.09		Having no jewels or only 1 jewel		34¢ each		$1.50 each
			Not over 0.6 inch in width:				
		10	Having a balance wheel and hairspring	No.			
		20	Other	No.			
			Over 0.6 but not over 0.9 inch in width:				
		30	Having a balance wheel and hairspring	No.			
		40	Other	No.			
			Over 0.9 but not over 1.77 inches in width:				
		50	Having a balance wheel and hairspring	No.			
		60	Other	No.			

GRP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	LDDC	2
			Watch movements, assembled, etc. (con.):				
			Having no jewels, etc. (con.):				
			Not adjusted, not self-winding, etc. (con.):				
	716.17		Having over 1 jewel but not over 7 jewels	.....	71¢ each		$2.50 each
		10	Not over 0.6 inch in width: Having a balance wheel and hairspring	No.			
		20	Other	No.			
			Over 0.6 but not over 0.9 inch in width:				
		30	Having a balance wheel and hairspring	No.			
		40	Other	No.			
			Over 0.9 but not over 1 inch in width:				
		50	Having a balance wheel and hairspring	No.			
		60	Other	No.			
			Over 1 but not over 1.77 inches in width:				
		70	Having a balance wheel and hairspring	No.			
		80	Other	No.			
			Having over 7 but not over 17 jewels:				
			Valued not over $15 each:				
	716.37	1/	Not over 0.6 inch in width	No.	$1.80 each + 9¢ for each jewel over 7		$2.50 each + 13¢ for each jewel over 7
	716.38	1/	Over 0.6 but not over 0.9 inch in width	No.	$1.35 each + 9¢ for each jewel over 7		$2.50 each + 13¢ for each jewel over 7
	716.39	1/	Over 0.9 but not over 1 inch in width	No.	$1.70 each + 9¢ for each jewel over 7		$2.50 each + 13¢ for each jewel over 7
	716.40	1/	Over 1 but not over 1.77 inches in width	No.	90¢ each + 9¢ for each jewel over 7		$2.50 each + 13¢ for each jewel over 7

1/ See subpart E statistical headnote 1(a).

GRP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
			Watch movements, assembled, etc. (con.):				
			Having no jewels, etc. (con.):				
			Not adjusted, not self-winding, etc. (con.):				
			Having over 7 but not over 17 jewels (con.):				
	716.45		Valued over $15 each	.....	72c each + 4c for each jewel over 7		$2.50 each + 13c for each jewel over 7
		20	Having a balance wheel and hairspring	No.			
		40	Other	No.			
	719.— (see headnote 3(b))	1/	Adjusted or self-winding, whether or not adjusted, (or if a self-winding device can be incorporated therein), or constructed or designed to operate for a period in excess of 47 hours without rewinding	No.....v	Column 1 base rate + 35c each if self-winding + 35c for each adjustment		Column 2 base rate + $1 each if self-winding + $1 for each adjustment
				No. adjustments..			
			Clock movements, assembled, without dials or hands, or with dials or hands whether or not assembled thereon:				
			Measuring less than 1.77 inches in width:				
			Not constructed or designed to operate for over 47 hours without rewinding:				
	720.02		Having no jewels or only 1 jewel	.....	32c each	30c each	4 75c each
		10	Electric:				
			Battery operated	No.			
		20	Other	No.			
		30	Other	No.			
	720.04		Having over 1 jewel	.....	55c each + 5.8c for each jewel over 7	53c each + 5.5c for each jewel over 7	$1.25 each + 15c for each jewel over 7
			Electric:				
		05	Battery operated	No.			
		25	Other	No.			
		45	Other	No.			
			Constructed or designed to operate for over 47 hours without rewinding:				
	720.06	00	Having no jewels or only 1 jewel	No.....	64c each	60c each	$1.75 each
	720.08		Having over 1 jewel	.....	88c each + 5.8c for each jewel over 7	85c each + 5.5c for each jewel over 7	$2.25 each + 15c for each jewel over 7
		50	Containing dutiable jewels	No. v			
			dutiable jewels..	No.			
		60	Not containing dutiable jewels	No.			
	720.09	00	If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)	No.....v	Free		$2.25 each + 15¢ for each jewel over 7
			dutiable jewels..	No.			

1/ See subpart E statistical headnote 1(d).

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	LDDC	2
			Clock movements, assembled, etc. (con.):				
			Other clock movements:				
	720.10		Valued not over $1.10 each	.....	7.5¢ each + 8.8% ad val. + 3.4¢ for each jewel, if any	5.5¢ each + 6.4% ad val. + 2.5¢ for each jewel, if any	33¢ each + 65% ad val. + 25¢ for each jewel, if any
			Electric (including battery operated):				
		05	Battery operated	No.			
		25	Other	No.			
		50	Other	No.			
	720.12		Valued over $1.10 but not over $2.25 each	.....	13¢ each + 8.8% ad val. + 3.4¢ for each jewel, if any	10¢ each + 6.4% ad val. + 2.5¢ for each jewel, if any	91 each + 65% ad val. + 25¢ for each jewel, if any
			Electric (including battery operated):				
		05	Battery operated	No.			
		25	Other	No.			
		50	Other	No.			
	720.14		Valued over $2.25 but not over $5 each	.....	70¢ each + 8.8% ad val. + 3.4¢ for each jewel, if any	15¢ each + 6.4% ad val. + 2.5¢ for each jewel, if any	$1.90 each + 65% ad val. + 25¢ for each jewel, if any
			Electric (including battery operated):				
		05	Battery operated	No.			
		25	Other	No.			
		50	Other	No.			
	720.16		Valued over $5 but not over $10 each	.....	41¢ each + 8.8% ad val. + 3.4¢ for each jewel, if any	30¢ each + 6.4% ad val. + 2.5¢ for each jewel, if any	$3 each + 65% ad val. + 25¢ for each jewel, if any
			Electric (including battery operated):				
		05	Battery operated	No.			
		25	Other	No.			
		50	Other	No.			
	720.18		Valued over $10 each	.....	61¢ each + 8.8% ad val. + 3.4¢ for each jewel, if any	45¢ each + 6.4% ad val. + 2.5¢ for each jewel, if any	$4.50 each + 65% ad val. + 25¢ for each jewel, if any
			Electric (including battery operated):				
		05	Battery operated	No.			
		25	Other	No.			
		50	Other	No.			
			Watch cases and parts thereof:				
			Wholly or almost wholly of gold or platinum or of both gold and platinum:				
	720.20	00	Cases	No.	20¢ each + 8.2% ad val.	15¢ each + 6% ad val.	75¢ each + 45% ad val.
			Parts:				
	720.21	00	Bezels, backs, and centers	No.	4¢ each + 9.8% ad val.	8% ad val.	75¢ each + 45% ad val.
	720.22	00	Other	X	11% ad val.	8% ad val.	65% ad val.

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
			Watch cases and parts thereof (con.):				
			Not wholly and not almost wholly of gold or platinum or of both gold and platinum:				
			Wholly or in part of silver; or containing gold or platinum; or set, or prepared to be set, with precious or semiprecious stones or with imitation gemstones:				
	720.24	00	Cases	No.	11c each + 8.5% ad val.	8c each + 6% ad val.	40c each + 45% ad val.
			Parts:				
	720.25	00	Bezels, backs, and centers	No.	5.5c each + 8.5% ad val.	4c each + 6% ad val.	20c each + 45% ad val.
	720.26	00	Other	X	8.5% ad val.	6% ad val.	45% ad val.
			Other:				
	720.28	00	Cases	No.	4.2c each + 8.5% ad val.	4c each + 8.5% ad val.	20c each + 45% ad val.
			Parts:				
	720.29	00	Bezels, backs, and centers	No.	2.1c each + 8.5% ad val.	2c each + 8.5% ad val.	10c each + 45% ad val.
	720.30	00	Other	X	8.5% ad val.	8.1% ad val.	45% ad val.
			Clock cases, cases for time switches or for other apparatus provided for in this subpart, and parts of the foregoing cases:				
			Clock cases and parts thereof:				
	720.32		Over 50 percent of metal by weight and wholly or in part of precious metal		10.2% ad val.	7.4% ad val.	60% ad val.
		20	Cases	No.			
		40	Parts	X			
			Other:				
	720.33	00	Outer cases for travel clocks	No.	5.5% ad val.	4% ad val.	45% ad val.
	720.34		Other		8.6% ad val.	6.9% ad val.	45% ad val.
		20	Cases	No.			
		40	Parts	X			
	720.36	00	Other cases and parts	X	8.5% ad val.	6% ad val.	45% ad val.
			Dials and parts thereof:				
			Watch and clock dials:				
	720.40		Under 1.77 inches in width		0.6c each + 12.4% ad val.	0.5c each + 9% ad val.	5c each + 45% ad val.
		20	Digital	No.			
		40	Other	No.			
	720.42	00	1.77 inches or more in width	No.	8.1% ad val.	6.6% ad val.	50% ad val.
	720.44		Other		13.8% ad val.	10% ad val.	50% ad val.
		20	Digital	X			
		40	Other	X			
	720.60	00	Jewels, unset, suitable for use for antifriction purposes in any watch or clock movement, or in any meter, compass, or similar precision mechanism	No.	1.3% ad val.	Free	10% ad val.
	720.65	00	Plates: Watch movement bottom or pillar plates or their equivalent	No.	One-half the column 1 duty for the cover-plate movement for which suitable		One-half the column 2 duty for the complete movement for which suitable

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	LDDC	2
			Plates (con.):				
	720.67	00	Any plate, or set of plates, suitable for assembling thereon a clock movement	No.	One-half the column 1 duty for the complete movement for which suitable		One-half the column 2 duty for the complete movement for which suitable
			Assemblies and subassemblies for watch movements, consisting of two or more parts or pieces fastened or joined together:				
	720.70	00	Balance assemblies, consisting of a balance staff, balance wheel, and hairspring, with or without other parts commercially known as parts of a balance assembly	No.	9¢ each assembly	7¢ each assembly	30¢ each assembly
	720.75		Other assemblies and subassemblies		13.4% ad val.	9% ad val.	45% ad val.
		40	For movements having a balance wheel and hairspring	X			
		50	Other	X			

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
			Assemblies and subassemblies for clock movements, consisting of two or more parts or pieces fastened or joined together:				
			Consisting in part of a plate or set of plates provided for in item 720.67:				
A	720.80	00	For standard marine chronometers having spring-detent escapements	X	The column 1 rate specified in item 720.67 for the plate or plates + 6.8¢ for each level (if any) + 1.3¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 5¢ for each level (if any) + 1¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 2 rate specified in item 720.67 for the plate or plates + 25¢ for each level (if any) + 5¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 2 duty for the complete movement
	720.82	00	For other movements	X	The column 1 rate specified in item 720.67 for the plate or plates + 3.4¢ for each level (if any) + 0.7¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 2.5¢ for each level (if any) + 0.5¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 2 rate specified in item 720.67 for the plate or plates + 25¢ for each level (if any) + 5¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 2 duty for the complete movement
			Other assemblies and subassemblies:				
	720.84	00	For standard marine chronometers having spring-detent escapements	X	17.9% ad val. + 6.8¢ for each level (if any) + 0.8¢ for each other piece or part	13% ad val. + 5¢ for each level (if any) + 0.6¢ for each other piece or part	65% ad val. + 25¢ for each level (if any) + 3¢ for each other piece or part
	720.86	00	For other movements	X	8.8% ad val. + 3.4¢ for each level (if any) + 0.4¢ for each other piece or part	6.4% ad val. + 2.5¢ for each level (if any) + 0.3¢ for each other piece or part	65% ad val. + 25¢ for each level (if any) + 3¢ for each other piece or part

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
			Other parts for watch or clock movements:				
	720.90	00	For watch movements	X	13.1% ad val.	11% ad val.	65% ad val.
			For clock movements:				
A	720.92	00	For standard marine chronometers having spring-detent escapements	X	12.8% ad val.	10% ad val.	65% ad val.
	720.94	00	For other movements	X	8.8% ad val.	6.4% ad val.	65% ad val.
	721.05	00	Any of the foregoing parts of watch movements (except bottom or pillar plates or their equivalent, bridges or their equivalent, and jewels) imported in the same shipment, and entered, with complete watch movements (whether or not suitable for use in such movements) but not including any portion of all the parts in such shipment which exceeds in value 4 percent of the value of such movements	X	12.4% ad val.	9% ad val.	65% ad val.
			Any of the foregoing parts of clock movements (except plates and jewels) imported in the same shipment, and entered, with complete clocks, clock movements, apparatus, or time switches provided for in this subpart (whether or not suitable for use in such complete articles), but not including any portion of all the parts in the shipment which exceeds in value 1.5 percent of the value of such complete articles:				
A	721.10	00	For any standard marine chronometers, if imported with any such articles	X	3.3% ad val.	2.4% ad val.	65% ad val.
	721.12	00	For any clock, clock movement, apparatus, or time switch, if imported with any complete articles except standard marine chronometers	X	6.1% ad val.	4.4% ad val.	65% ad val.
	721.20	00	Any article in the foregoing items covering clocks, clock movements, clock cases and dials and parts thereof, plates (720.67), assemblies and sub-assemblies for clock movements, and other parts for clock movements, if Canadian article and original motor-vehicle equipment (see headnote 2, part 4B, schedule 6)	X	Free		

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

ATTACHMENT B

HISTORY OF THE TAR[illegible]

Sheet Sheet 1
Part 2

Staged Rates

Modifications of column 1 rates of duty by Pres. Proc. 4707 (Tokyo Round), December 11, 1979, 44 F.R. 72340, as amended and Pres. Proc. 4768 (Customs Valuation Code), June 28, 1980, 45 F.R. 43135, as amended (see Preface):

TSUS item	Prior rate	Rates of duty 1/, effective with respect to articles entered, or withdrawn from warehouse, for consumption on and after --							
		January 1, 1980 except as noted	January 1, 1981	January 1, 1982	January 1, 1983	January 1, 1984	January 1, 1985	January 1, 1986	January 1, 1987
711.90	5% ad val.	4.6%	3.8%	3.1%	2.5%	1.9%	1.3%	0.6%	Free
712.09	25% ad val.	23.1%	21.3%	19.4%	17.5%	15.6%	13.8%	11.9%	10%
712.10	46¢ each + 7% ad val.	46¢ each + 6.7%	36¢ each + 6.3%	28¢ each + 6.7%	23¢ each + 5.9%	17¢ each + 5.6%	11¢ each + 5.4%	5¢ each + 5.1%	4.8%
712.12	25% ad val.	23.1%	21.3%	19.4%	17.5%	15.6%	13.8%	11.9%	10%
712.15	7% ad val.	6.7%	6.4%	6.1%	5.9%	5.6%	5.3%	5%	6.7%
712.20	7.5% ad val.	7.2%	6.9%	6.5%	6.2%	5.9%	5.6%	5.2%	4.9%
712.25	$1.12 each + 17.5% ad val.	$1.04 each + 16.3%	94¢ each + 15%	88¢ each + 13.8%	80¢ each + 12.6%	72¢ each + 11.3%	66¢ each + 10.1%	56¢ each + 8.8%	49¢ each + 7.6%
712.27	22.5% ad val.	20.8%	19.1%	17.4%	15.8%	14.1%	12.4%	10.7%	9%
712.67	6% ad val.	6.2%	6.2%	6.2%	6.2%	6.2%	6.2%	6.2%	6.2%
712.69	10% ad val.	9.6%	8.7%	8.1%	7.5%	6.8%	6.2%	5.5%	6.9%
713.05	75¢ each + 10% ad val.	69¢ each + 14.8%	63¢ each + 13.6%	58¢ each + 12.4%	52¢ each + 11.2%	46¢ each + 10%	41¢ each + 8.8%	35¢ each + 7.6%	30¢ each + 6.4%
713.07	$1.12 each + 10% ad val.	98¢ each + 14%	86¢ each + 12%	75¢ each + 10%	64¢ each + 8%	53¢ each + 6.4%	43¢ each + 6.4%	45¢ each + 6.4%	43¢ each + 6.4%
713.09	$1.12 each + 11% ad val.	$1.03 each + 10.2%	95¢ each + 9.4%	86¢ each + 8.5%	78¢ each + 7.7%	70¢ each + 6.9%	61¢ each + 6.1%	53¢ each + 5.3%	45¢ each + 4.5%
713.11	$1.12 each + 17.5% ad val.	$1.03 each + 16.2%	95¢ each + 14.9%	86¢ each + 13.6%	78¢ each + 12.3%	70¢ each + 10.9%	61¢ each + 9.6%	53¢ each + 8.3%	45¢ each + 7%
713.13	22.5% ad val.	19.5%	16.5%	14.1%	13%	12%	11%	10%	9%
713.17	$1.12 each + 17.5% ad val.	$1.03 each + 16.2%	95¢ each + 14.9%	86¢ each + 13.6%	78¢ each + 12.3%	70¢ each + 10.9%	61¢ each + 9.6%	53¢ each + 8.3%	45¢ each + 7%
713.19	22.5% ad val.	19.5%	16.5%	13.5%	10.5%	9%	9%	9%	9%
713.20	57¢ each + 8.5% ad val. + 3.5¢ for each jewel, if any	54¢ each + 8.1% + 3.3¢ for each jewel, if any	51¢ each + 7.6% + 3.1¢ for each jewel, if any	46¢ each + 7.2% + 2.9¢ for each jewel, if any	43¢ each + 6.7% + 2.7¢ for each jewel, if any	43¢ each + 6.3% + 2.5¢ for each jewel, if any	39¢ each + 5.9% + 2.3¢ for each jewel, if any	36¢ each + 5.4% + 2.1¢ for each jewel, if any	34¢ each + 5% + 2¢ for each jewel, if any
713.23 1/	13.5¢ each + 16% ad val. + 6.25¢ for each jewel, if any	12.6¢ each + 14.9% + 5.8¢ for each jewel, if any	11.7¢ each + 13.9% + 5.4¢ for each jewel, if any	10.8¢ each + 12.8% + 5¢ for each jewel, if any	9.9¢ each + 11.7% + 4.5¢ for each jewel, if any	9.1¢ each + 10.7% + 4.1¢ for each jewel, if any	8.2¢ each + 9.6% + 3.7¢ for each jewel, if any	7.3¢ each + 8.5% + 3.3¢ for each jewel, if any	6.4¢ each + 7.5% + 2.9¢ for each jewel, if any 2/
713.27	25¢ each + 16% ad val. + 6.25¢ for each jewel, if any	23¢ each + 14.8% + 5.7¢ for each jewel, if any	21¢ each + 13.6% + 5.3¢ for each jewel, if any	19¢ each + 12.4% + 4.8¢ for each jewel, if any	17¢ each + 11.1% + 4.3¢ for each jewel, if any	15¢ each + 10% + 3.9¢ for each jewel, if any	13¢ each + 8.8% + 3.4¢ for each jewel, if any	11¢ each + 7.6% + 2.9¢ for each jewel, if any	10¢ each + 6.4% + 2.5¢ for each jewel, if any
713.29	37.5¢ each + 16% ad val. + 6.25¢ for each jewel, if any	34¢ each + 14.8% + 5.7¢ for each jewel, if any	31¢ each + 13.6% + 5.3¢ for each jewel, if any	29¢ each + 12.4% + 4.8¢ for each jewel, if any	26¢ each + 11.2% + 4.3¢ for each jewel, if any	23¢ each + 10% + 3.9¢ for each jewel, if any	20¢ each + 8.8% + 3.4¢ for each jewel, if any	17¢ each + 7.6% + 2.9¢ for each jewel, if any	15¢ each + 6.4% + 2.5¢ for each jewel, if any
713.31	75¢ each + 16% ad val. + 6.25¢ for each jewel, if any	69¢ each + 14.8% + 5.7¢ for each jewel, if any	63¢ each + 13.6% + 5.3¢ for each jewel, if any	58¢ each + 12.4% + 4.8¢ for each jewel, if any	52¢ each + 11.2% + 4.3¢ for each jewel, if any	46¢ each + 10% + 3.9¢ for each jewel, if any	41¢ each + 8.8% + 3.4¢ for each jewel, if any	35¢ each + 7.6% + 2.9¢ for each jewel, if any	30¢ each + 6.4% + 2.5¢ for each jewel, if any
713.33	$1.12 each + 16% ad val. + 6.25¢ for each jewel, if any	$1.03 each + 14.8% + 5.7¢ for each jewel, if any	95¢ each + 13.6% + 5.3¢ for each jewel, if any	86¢ each + 12.4% + 4.8¢ for each jewel, if any	78¢ each + 11.2% + 4.3¢ for each jewel, if any	70¢ each + 10% + 3.9¢ for each jewel, if any	61¢ each + 8.8% + 3.4¢ for each jewel, if any	53¢ each + 7.6% + 2.9¢ for each jewel, if any	45¢ each + 6.4% + 2.5¢ for each jewel, if any
713.40	90¢ each + 17% ad val. + 3¢ for each jewel, if any	83¢ each + 15.7% + 4.6¢ for each jewel, if any	76¢ each + 14.3% + 4.3¢ for each jewel, if any	69¢ each + 13% + 3.8¢ for each jewel, if any	63¢ each + 11.7% + 3.5¢ for each jewel, if any	56¢ each + 10.3% + 3.1¢ for each jewel, if any	49¢ each + 9.1% + 2.7¢ for each jewel, if any	43¢ each + 7.8% + 2.3¢ for each jewel, if any	36¢ each + 6.6% + 2% for each jewel, if any
713.45	13.75¢ each + 16% ad val. + 6.25¢ for each jewel, if any	12.7¢ each + 14.8% + 5.7¢ for each jewel, if any	11.6¢ each + 13.6% + 5.3¢ for each jewel, if any	10.6¢ each + 12.4% + 4.8¢ for each jewel, if any	9.6¢ each + 11.2% + 4.3¢ for each jewel, if any	8.5¢ each + 10% + 3.9¢ for each jewel, if any	7.5¢ each + 8.8% + 3.4¢ for each jewel, if any	6.5¢ each + 7.6% + 2.9¢ for each jewel, if any	5.5¢ each + 6.4% + 2.5¢ for each jewel, if any

1/ The symbol "%" indicates percent ad valorem. The symbol "¢" indicates per stated unit of quantity.
2/ For item 713.23, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 3.5¢ each + 6.4% + 2.5¢ for each jewel, if any.

Notes p. 1[illegible]
Schedule 7
Part 2

Staged Rates

Modifications of column 1 rates of duty by Pres. Proc. 4707 (Tokyo Round), December 11, 1979, 44 F.R. 72368, as amended and Pres. Proc. 4769 (Customs Valuation Code), June 28, 1980, 45 F.R. 45135, as amended (see Preface):

TSUS item	Prior rate	Rates of duty 1/, effective with respect to articles entered, or withdrawn from warehouse, for consumption on and after --							
		January 1, 1980 except as noted	January 1, 1981	January 1, 1982	January 1, 1983	January 1, 1984	January 1, 1985	January 1, 1986	January 1, 1987
715.47	25¢ each + 16% ad val. + 6.25¢ for each jewel, if any	23¢ each + 14.8% + 5.7¢ for each jewel, if any	21¢ each + 13.6% + 5.3¢ for each jewel, if any	19¢ each + 12.4% + 4.8¢ for each jewel, if any	17¢ each + 11.2% + 4.3¢ for each jewel, if any	15¢ each + 10% + 3.9¢ for each jewel, if any	13¢ each + 8.8% + 3.4¢ for each jewel, if any	11¢ each + 7.6% + 2.9¢ for each jewel, if any	10¢ each + 6.4% + 2.5¢ for each jewel, if any
715.49	37.5¢ each + 16% ad val. + 6.25¢ for each jewel, if any	34¢ each + 14.8% + 5.7¢ for each jewel, if any	31¢ each + 13.6% + 5.3¢ for each jewel, if any	29¢ each + 12.4% + 4.8¢ for each jewel, if any	26¢ each + 11.2% + 4.3¢ for each jewel, if any	23¢ each + 10% + 3.9¢ for each jewel, if any	20¢ each + 8.8% + 3.4¢ for each jewel, if any	17¢ each + 7.6% + 2.9¢ for each jewel, if any	15¢ each + 6.4% + 2.5¢ for each jewel, if any
715.51	75¢ each + 16% ad val. + 6.25¢ for each jewel, if any	69¢ each + 14.8% + 5.7¢ for each jewel, if any	63¢ each + 13.6% + 5.3¢ for each jewel, if any	58¢ each + 12.4% + 4.8¢ for each jewel, if any	52¢ each + 11.2% + 4.3¢ for each jewel, if any	46¢ each + 10% + 3.9¢ for each jewel, if any	41¢ each + 8.8% + 3.4¢ for each jewel, if any	35¢ each + 7.6% + 2.9¢ for each jewel, if any	30¢ each + 6.4% + 2.5¢ for each jewel, if any
715.53	$1.12 each + 17.5% ad val. + 6.25¢ for each jewel, if any	$1.03 each + 16.2% + 5.7¢ for each jewel, if any	95¢ each + 14.9% + 5.3¢ for each jewel, if any 2/	2/	2/	2/	2/	2/	2/
715.55	$1.12 each + 17.5% ad val. + 6.25¢ for each jewel, if any	2/	95¢ each + 14.9% + 5.3¢ for each jewel, if any 2/	86¢ each + 13.6% + 4.8¢ for each jewel, if any	78¢ each + 12.2% + 4.3¢ for each jewel, if any	70¢ each + 10.9% + 3.9¢ for each jewel, if any	61¢ each + 9.6% + 3.4¢ for each jewel, if any	53¢ each + 8.3% + 2.9¢ for each jewel, if any	45¢ each + 7% + 2.5¢ for each jewel, if any
715.57	$1.12 each + 17.5% ad val. + 6.25¢ for each jewel, if any	2/	95¢ each + 14.9% + 5.3¢ for each jewel, if any 2/	86¢ each + 13.6% + 4.8¢ for each jewel, if any	78¢ each + 12.2% + 4.3¢ for each jewel, if any	70¢ each + 10.9% + 3.9¢ for each jewel, if any	61¢ each + 9.6% + 3.4¢ for each jewel, if any	53¢ each + 8.3% + 2.9¢ for each jewel, if any	45¢ each + 7% + 2.5¢ for each jewel, if any
715.60	13.75¢ each + 16% ad val. + 6.25¢ for each jewel, if any	12.7¢ each + 14.8% + 5.7¢ for each jewel, if any	11.6¢ each + 13.6% + 5.3¢ for each jewel, if any	10.6¢ each + 12.4% + 4.8¢ for each jewel, if any	9.6¢ each + 11.2% + 4.3¢ for each jewel, if any	8.5¢ each + 10% + 3.9¢ for each jewel, if any	7.5¢ each + 8.8% + 3.4¢ for each jewel, if any	6.5¢ each + 7.6% + 2.9¢ for each jewel, if any	5.5¢ each + 6.4% + 2.5¢ for each jewel, if any
715.62	25¢ each + 16% ad val. + 6.25¢ for each jewel, if any	23¢ each + 14.8% + 5.7¢ for each jewel, if any	21¢ each + 13.6% + 5.3¢ for each jewel, if any	19¢ each + 12.4% + 4.8¢ for each jewel, if any	17¢ each + 11.2% + 4.3¢ for each jewel, if any	15¢ each + 10% + 3.9¢ for each jewel, if any	13¢ each + 8.8% + 3.4¢ for each jewel, if any	11¢ each + 7.6% + 2.9¢ for each jewel, if any	10¢ each + 6.4% + 2.5¢ for each jewel, if any
715.64	37.5¢ each + 16% ad val. + 6.25¢ for each jewel, if any	34¢ each + 9.2% + 5.7¢ for each jewel, if any	31¢ each + 8.5% + 5.3¢ for each jewel, if any	29¢ each + 7.7% + 4.8¢ for each jewel, if any	26¢ each + 7% + 4.3¢ for each jewel, if any	23¢ each + 6.2% + 3.9¢ for each jewel, if any	20¢ each + 5.5% + 3.4¢ for each jewel, if any	17¢ each + 4.7% + 2.9¢ for each jewel, if any	15¢ each + 4% + 2.5¢ for each jewel, if any
715.66	75¢ each + 16% ad val. + 6.25¢ for each jewel, if any	69¢ each + 9.2% + 5.7¢ for each jewel, if any	63¢ each + 8.5% + 5.3¢ for each jewel, if any	58¢ each + 7.7% + 4.8¢ for each jewel, if any	52¢ each + 7% + 4.3¢ for each jewel, if any	46¢ each + 6.2% + 3.9¢ for each jewel, if any	41¢ each + 5.5% + 3.4¢ for each jewel, if any	35¢ each + 4.7% + 2.9¢ for each jewel, if any	30¢ each + 4% + 2.5¢ for each jewel, if any
715.68	$1.12 each + 16% ad val. + 6.25¢ for each jewel, if any	$1.03 each + 14.8% + 5.7¢ for each jewel, if any	95¢ each + 13.6% + 5.3¢ for each jewel, if any	86¢ each + 12.4% + 4.8¢ for each jewel, if any	78¢ each + 11.2% + 4.3¢ for each jewel, if any	70¢ each + 10% + 3.9¢ for each jewel, if any	61¢ each + 8.8% + 3.4¢ for each jewel, if any	53¢ each + 7.6% + 2.9¢ for each jewel, if any	45¢ each + 6.4% + 2.5¢ for each jewel, if any
716.06	$5.37 each	$4.73 each	$4.08 each	$3.44 each	$2.79 each	$2.15 each	$2.15 each	$2.15 each	$2.15 each
716.10	90¢ each	79¢ each	68¢ each	58¢ each	47¢ each	36¢ each	3/	3/	3/
716.18	75¢ each	67¢ each	59¢ each	52¢ each	44¢ each	36¢ each	3/	3/	3/
716.20	$1.00 each	$1.50 each	$1.37 each	$1.15 each	96¢ each	77¢ each	3/	3/	3/
716.27	$1.35 each	$1.22 each	$1.10 each	97¢ each	85¢ each	73¢ each	3/	3/	3/
716.28	$1.20 each	$1.10 each	$1 each	91¢ each	82¢ each	72¢ each	3/	3/	3/
716.29	90¢ each	86¢ each	83¢ each	79¢ each	76¢ each	72¢ each	3/	3/	3/

1/ The symbol "%" indicates percent ad valorem. The symbol "¢" indicates per stated unit of quantity.
2/ Item 715.53 is discontinued effective March 31, 1981, and is superseded by items 715.55 and 715.57.
3/ Items 716.10 and 716.18 are discontinued effective January 1, 1985, and are transferred to new item 716.09. See Annex II, Section B.
4/ Items 716.20, 716.27, 716.28 and 716.29 are discontinued effective January 1, 1985, and are transferred to new item 716.17. See Annex II, Section B.

Stored Rates

Notes p. 13
Schedule 7
Part 2

Modifications of column 1 rates of duty by Pres. Proc. 4707 (Tokyo Round), December 11, 1979, 44 F.R. 72368, as amended and Pres. Proc. 4768 (Customs Valuation Code), June 28, 1980, 45 F.R. 45135, as amended (see Preface):

TSUS item	Prior rate	Rates of duty 1/, effective with respect to articles entered, or withdrawn from warehouse, for consumption on and after --							
		January 1, 1980 except as noted	January 1, 1981	January 1, 1982	January 1, 1983	January 1, 1984	January 1, 1985	January 1, 1986	January 1, 1987
716.29 2/	90c each	90c each	83c each	79c each	76c each	72c each	2/	2/	2/
716.41 2/	$1.80 each + 9c for each jewel over 7	$1.58 each + 8c for each jewel over 7	$1.36 each + 7c for each jewel over 7	$1.15 each + 6c for each jewel over 7	93c each + 5c for each jewel over 7	72c each + 4c for each jewel over 7	2/	2/	2/
716.42 2/	$1.35 each + 9c for each jewel over 7	$1.22 each + 8c for each jewel over 7	$1.09 each + 7c for each jewel over 7	97c each + 6c for each jewel over 7	84c each + 5c for each jewel over 7	72c each + 4c for each jewel over 7	2/	2/	2/
716.43 2/	$1.20 each + 9c for each jewel over 7	$1.10 each + 8c for each jewel over 7	$1 each + 7c for each jewel over 7	91c each + 6c for each jewel over 7	81c each + 5c for each jewel over 7	72c each + 4c for each jewel over 7	2/	2/	2/
716.44 2/	90c each + 9c for each jewel over 7	86c/each + 8c for each jewel over 7	82c each + 7c for each jewel over 7	79c each + 6c for each jewel over 7	75c each + 5c for each jewel over 7	72c each + 4c for each jewel over 7	2/	2/	2/
719.--	Column 1 base rate + 50c each + 50c for each adjustment	Column 1 base rate + 47c each if self-winding + 47c for each adjustment	Column 1 base rate + 44c each if self-winding + 44c for each adjustment	Column 1 base rate + 41c each if self-winding + 41c for each adjustment	Column 1 base rate + 38c each if self-winding + 38c for each adjustment	Column 1 base rate + 35c each if self-winding + 35c for each adjustment	Column 1 base rate + 35c each if self-winding + 35c for each adjustment	Column 1 base rate + 35c each if self-winding + 35c for each adjustment	Column 1 base rate + 35c each if self-winding + 35c for each adjustment
720.02	37c each	36c each	35c each	34c each	33c each	32c each	32c each	31c each	30c each
720.04	62c each + 6.75c for each jewel over 7	61c each + 6.5c for each jewel over 7	60c each + 6.4c for each jewel over 7	59c each + 6.2c for each jewel over 7	57c each + 6.1c for each jewel over 7	56c each + 5.9c for each jewel over 7	55c each + 5.8c for each jewel over 7	54c each + 5.6c for each jewel over 7	53c each + 5.5c for each jewel over 7
720.06	75c each	73c each	71c each	69c each	67c each	65c each	64c each	62c each	60c each
720.08	$1 each + 6.75c for each jewel over 7	98c each + 6.5c for each jewel over 7	96c each + 6.4c for each jewel over 7	94c each + 6.2c for each jewel over 7	92c each + 6.1c for each jewel over 7	90c each + 5.9c for each jewel over 7	88c each + 5.8c for each jewel over 7	86c each + 5.6c for each jewel over 7	85c each + 5.5c for each jewel over 7
720.10	13.75c each + 16% ad val. + 6.25c for each jewel, if any	12.7c each + 16.8% + 5.7c for each jewel, if any	11.6c each + 13.6% + 5.3c for each jewel, if any	10.6c each + 12.4% + 4.8c for each jewel, if any	9.6c each + 11.2% + 4.3c for each jewel, if any	8.5c each + 10% + 3.9c for each jewel, if any	7.5c each + 8.8% + 3.4c for each jewel, if any	6.5c each + 7.6% + 2.9c for each jewel, if any	5.5c each + 6.4% + 2.5c for each jewel, if any
720.12	25c each + 16% ad val. + 6.25c for each jewel, if any	23c each + 16.8% + 5.7c for each jewel, if any	21c each + 13.6% + 5.3c for each jewel, if any	19c each + 12.4% + 4.8c for each jewel, if any	17c each + 11.2% + 4.3c for each jewel, if any	15c each + 10% + 3.9c for each jewel, if any	13c each + 8.8% + 3.4c for each jewel, if any	11c each + 7.6% + 2.9c for each jewel, if any	10c each + 6.4% + 2.5c for each jewel, if any
720.14	37.5c each + 16% ad val. + 6.25c for each jewel, if any	34c each + 16.8% + 5.7c for each jewel, if any	31c each + 13.6% + 5.3c for each jewel, if any	29c each + 12.4% + 4.8c for each jewel, if any	26c each + 11.2% + 4.3c for each jewel, if any	23c each + 10% + 3.9c for each jewel, if any	20c each + 8.8% + 3.4c for each jewel, if any	17c each + 7.6% + 2.9c for each jewel, if any	15c each + 6.4% + 2.5c for each jewel, if any
720.16	75c each + 16% ad val. + 6.25c for each jewel, if any	69c each + 16.8% + 5.7c for each jewel, if any	63c each + 13.6% + 5.3c for each jewel, if any	58c each + 12.4% + 4.8c for each jewel if any	52c each + 11.2% + 4.3c for each jewel, if any	46c each + 10% + 3.9c for each jewel, if any	41c each + 8.8% + 3.4c for each jewel, if any	35c each + 7.6% + 2.9c for each jewel, if any	30c each + 6.4% + 2.5c for each jewel, if any
720.18	$1.125 each + 16% ad val. + 6.25c for each jewel, if any	$1.04 each + 16.8% + 5.7c for each jewel, if any	95c each + 13.6% + 5.3c for each jewel, if any	87c each + 12.4% + 4.8c for each jewel, if any	78c each + 11.2% + 4.3c for each jewel, if any	70c each + 10% + 3.9c for each jewel, if any	61c each + 8.8% + 3.4c for each jewel, if any	53c each + 7.6% + 2.9c for each jewel, if any	45c each + 6.4% + 2.5c for each jewel, if any
720.20	37c each + 15% ad val.	34c each + 13.8%	31c each + 12.7%	28c each + 11.6%	26c each + 10.5%	23c each + 9.3%	20c each + 8.2%	17c each + 7.1%	15c each + 6%
720.21	18c each + 15% ad val.	15c each + 14.1%	13c each + 13.3%	11c each + 12.4%	9c each + 11.5%	8c each + 10.6%	6c each + 9.8%	2c each + 8.9%	8%
720.22	20% ad val.	18.5%	17%	15.5%	14%	12.5%	11%	9.5%	8%
720.24	20c each + 15% ad val.	18.5c each + 13.9%	17c each + 12.8%	15.5c each + 11.6%	14c each + 10.5%	12.5c each + 9.4%	11c each + 8.3%	9.5c each + 7.1%	8c each + 6%
720.25	10c each + 15% ad val.	9c each + 13.9%	8.5c each + 12.8%	7.5c each + 11.6%	7c each + 10.5%	6c each + 9.4%	5.5c each + 8.3%	4.5c each + 7.1%	4c each + 6%

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.
2/ Items 716.41, 716.42, 716.43 and 716.44 are discontinued effective January 1, 1985, and are transferred to new item 716.43. See Annex II, Section B.
3/ Item 716.29 is discontinued effective January 1, 1985, and is transferred to new item 716.17. See Annex II, Section B.

(1st Supp. 9/30/82)

Notes p. 14
Schedule 7
Part 2

Staged Rates

Modifications of column 1 rates of duty by Pres. Proc. 4707 (Tokyo Round), December 11, 1979, 44 F.R. 72368, as amended and Pres. Proc. 4768 (Customs Valuation Code), June 20, 1980, 45 F.R. 41135, as amended (see Preface):

TSUS item	Prior rate	Rates of duty 1/, effective with respect to articles entered, or withdrawn from warehouse, for consumption on and after --							
		January 1, 1980 except as noted	January 1, 1981	January 1, 1982	January 1, 1983	January 1, 1984	January 1, 1985	January 1, 1986	January 1, 1987
720.26	15% ad val.	13.9%	12.8%	11.6%	10.5%	9.4%	8.3%	7.1%	6%
720.28	5¢ each + 10% ad val.	4.8¢ each + 9.8%	4.7¢ each + 9.6%	4.6¢ each + 9.4%	4.5¢ each + 9.3%	4.3¢ each + 9.1%	4.2¢ each + 8.9%	4.1¢ each + 8.7%	4¢ each + 8.5%
720.29	2.5¢ each + 10% ad val.	2.4¢ each + 9.8%	2.3¢ each + 9.6%	2.3¢ each + 9.4%	2.2¢ each + 9.3%	2.1¢ each + 9.1%	2.1¢ each + 8.9%	2¢ each + 8.7%	2¢ each + 8.5%
720.30	9.5% ad val.	9.3%	9.1%	9%	8.8%	8.6%	8.5%	8.3%	8.1%
720.32	18.5% ad val.	17.1%	15.7%	14.3%	13%	11.6%	10.2%	8.8%	7.4%
720.33	10% ad val.	9.3%	8.5%	7.8%	7%	6.3%	5.5%	4.8%	4%
720.34	13.5% ad val.	12.7%	11.9%	11%	10.2%	9.4%	8.6%	7.7%	6.9%
720.36	15% ad val.	13.9%	12.8%	11.6%	10.5%	9.4%	8.3%	7.1%	6%
720.40	1.2¢ each + 22.5% ad val.	1.1¢ each + 20.8%	1¢ each + 19.1%	0.9¢ each + 17.4%	0.8¢ each + 15.8%	0.7¢ each + 14.1%	0.6¢ each + 12.4%	0.6¢ each + 10.7%	0.5¢ each + 9%
720.42	17.5% ad val.	11.8%	11%	10.3%	9.6%	8.8%	8.1%	7.3%	6.6%
720.46	25% ad val.	23.1%	21.3%	19.4%	17.5%	15.6%	13.8%	11.9%	10%
720.60	5% ad val.	4.6%	3.8%	3.1%	2.5%	1.9%	1.3%	0.6%	Free
720.70	17.5¢ each assembly	16¢ each assembly	15¢ each assembly	13¢ each assembly	13¢ each assembly	11¢ each assembly	9¢ each assembly	8¢ each assembly	7¢ each assembly
720.75	4.5¢ for each jewel (if any) + the column 1 rate specified in item 720.65 for bottom or pillar plates or their equivalent therein (if any) + 1¢ for each other part or piece therein (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement for which suitable, nor be less than 22.5% ad val. unless said 22.5 percent rate exceeds the column 1 duty for the complete movement.	20.8%	19.1%	17.4%	15.8%	14.1%	12.4%	10.7%	9%

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

Notes p. 15
Schedule 7
Part 2

Staged rates

Modifications of column 1 rates of duty by Pres. Proc. 4707 (Tokyo Round), December 11, 1979, 44 F.R. 72368, as amended and Pres. Proc. 4768 (Customs Valuation Code), June 28, 1980, 45 F.R. 45135, as amended (see Preface):

TSUS item	Prior rate	Rates of duty 1/, effective with respect to articles entered, or withdrawn from warehouse, for consumption on and after --							
		January 1, 1980 except as noted	January 1, 1981	January 1, 1982	January 1, 1983	January 1, 1984	January 1, 1985	January 1, 1986	January 1, 1987
720.80	The column 1 rate specified in item 720.67 for the plate or plates + 12.5¢ for each jewel (if any) + 2.5¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement.	The column 1 rate specified in item 720.67 for the plate or plates + 11.5¢ for each jewel (if any) + 2.3¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 10.6¢ for each jewel (if any) + 2.1¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 9.6¢ for each jewel (if any) + 1.9¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 8.7¢ for each jewel (if any) + 1.7¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 7.8¢ for each jewel (if any) + 1.5¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 6.8¢ for each jewel (if any) + 1.3¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 5.9¢ for each jewel (if any) + 1.1¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 5¢ for each jewel (if any) + 1¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement
720.82	The column 1 rate specified in item 720.67 for the plate or plates + 6.25¢ for each jewel (if any) + 1.25¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement.	The column 1 rate specified in item 720.67 for the plate or plates + 5.7¢ for each jewel (if any) + 1.2¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 5.3¢ for each jewel (if any) + 1.1¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 4.8¢ for each jewel (if any) + 1¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 4.3¢ for each jewel (if any) + 0.9¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 3.9¢ for each jewel (if any) + 0.8¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 3.4¢ for each jewel (if any) + 0.7¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 2.9¢ for each jewel (if any) + 0.6¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement	The column 1 rate specified in item 720.67 for the plate or plates + 2.5¢ for each jewel (if any) + 0.5¢ for each other part or piece (if any), but the total duty on the assembly or subassembly shall not exceed the column 1 duty for the complete movement
720.84	32.5% ad val. + 12.5¢ for each jewel (if any) + 1.5¢ for each other piece or part	30.1% + 11.5¢ for each jewel (if any) + 1.3¢ for each other piece or part	27.6% + 10.6¢ for each jewel (if any) + 1.2¢ for each other piece or part	25.2% + 9.6¢ for each jewel (if any) + 1.1¢ for each other piece or part	22.8% + 8.7¢ for each jewel (if any) + 1¢ for each other piece or part	20.3% + 7.8¢ for each jewel (if any) + 0.9¢ for each other piece or part	17.9% + 6.8¢ for each jewel (if any) + 0.8¢ for each other piece or part	15.4% + 5.9¢ for each jewel (if any) + 0.7¢ for each other piece or part	13% + 5¢ for each jewel (if any) + 0.6¢ for each other piece or part
720.86	16% ad val. + 6.25¢ for each jewel (if any) + 0.75¢ for each other piece or part	14.8% + 5.7¢ for each jewel (if any) + 0.69¢ for each other piece or part	13.6% + 5.3¢ for each jewel (if any) + 0.63¢ for each other piece or part	12.4% + 4.8¢ for each jewel (if any) + 0.58¢ for each other piece or part	11.2% + 4.3¢ for each jewel (if any) + 0.52¢ for each other piece or part	10% + 3.9¢ for each jewel (if any) + 0.47¢ for each other piece or part	8.8% + 3.4¢ for each jewel (if any) + 0.41¢ for each other piece or part	7.6% + 2.9¢ for each jewel (if any) + 0.35¢ for each other piece or part	6.4% + 2.5¢ for each jewel (if any) + 0.3¢ for each other piece or part
720.90	27.5% ad val.	25.4%	23.4%	21.3%	19.3%	17.2%	15.1%	13.1%	11%

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

Notes p. 16
Schedule 7
Part 2

Staged Rates

Modifications of column 1 rates of duty by Pres. Proc. 4707 (Tokyo Round), December 11, 1979, 44 F.R. 72348, as amended and Pres. Proc. 4768 (Customs Valuation Code), June 28, 1980, 45 F.R. 45135, as amended (see Preface):

TSUS item	Prior rate	Rates of duty 1/, effective with respect to articles entered, or withdrawn from warehouse, for consumption on and after —							
		January 1, 1980 except as noted	January 1, 1981	January 1, 1982	January 1, 1983	January 1, 1984	January 1, 1985	January 1, 1986	January 1, 1987
720.92	25% ad val.	23.1%	21.3%	19.6%	17.5%	15.6%	13.8%	11.9%	10%
720.94	16% ad val.	14.8%	13.6%	12.6%	11.2%	10%	8.8%	7.6%	6.4%
721.05	22.5% ad val.	20.8%	19.1%	17.6%	15.8%	14.1%	12.4%	10.7%	9%
721.10	6% ad val.	5.6%	5.1%	4.7%	4.2%	3.8%	3.3%	2.9%	2.4%
721.12	11% ad val.	10.2%	9.4%	8.5%	7.7%	6.9%	6.1%	5.2%	4.4%
722.02	12% ad val.	11.1%	10.1%	9.2%	8.3%	7.3%	6.4%	5.4%	4.5%
722.04	6% ad val.	5.8%	5.6%	5.4%	5.3%	5.1%	4.9%	4.7%	4.5%
722.10	12.5% ad val.	11.6%	10.6%	9.7%	8.7%	7.8%	6.9%	5.9%	5%
722.12	10% ad val.	9.3%	8.5%	7.8%	7%	6.3%	5.5%	4.8%	4%
722.14	17% ad val.	15.7%	14.5%	13.2%	11.9%	10.6%	9.4%	8.1%	6.8%
722.16	7.5% ad val.	6.9%	6.4%	5.8%	5.3%	4.7%	4.1%	3.6%	3%
722.18	7.5% ad val.	7.2%	6.9%	6.5%	6.2%	5.9%	5.6%	5.2%	4.9%
722.30	12.5% ad val.	11.6%	10.6%	9.7%	8.8%	7.8%	6.9%	5.9%	5%
722.32	7.5% ad val.	7.2%	6.9%	6.5%	6.2%	5.9%	5.6%	5.2%	4.9%
722.34	10% ad val.	9.5%	9%	8.6%	7.9%	7.6%	6.9%	6.3%	5.8%
722.40	17.5% ad val.	17.5%	17.5%	15.8%	14%	12.3%	10.5%	8.8%	7%
722.42	5.5% ad val.	5.1%	4.7%	4.3%	3.9%	3.6%	3%	2.6%	2.2%
722.44	17.5% ad val.	16.2%	14.9%	13.6%	12.3%	10.9%	9.6%	8.3%	7%
722.46	17.5% ad val.	16.2%	14.9%	13.6%	12.3%	10.9%	9.6%	8.3%	7%
722.50	17.5% ad val.	16.2%	14.9%	13.6%	12.3%	10.9%	9.6%	8.3%	7%
722.52	17.5% ad val.	16.3%	15.1%	13.9%	12.7%	11.4%	10.2%	9%	7.8%
722.55	22.5% ad val.	22.5%	22.5%	20.3%	18%	15.8%	13.5%	11.3%	9%
722.56	7% ad val.	6.7%	6.4%	6.1%	5.9%	5.6%	5.3%	5%	4.7%
722.60	9.5% ad val.	9%	8.6%	8.1%	7.6%	7.1%	6.7%	6.2%	5.7%
722.64	10% ad val.	9.5%	9%	8.6%	7.9%	7.6%	6.9%	6.3%	5.8%
722.70	10% ad val.	9.3%	8.5%	7.8%	7%	6.3%	5.5%	4.8%	4%
722.72	5.5% ad val.	5.3%	5.1%	4.9%	4.7%	4.5%	4.3%	4.1%	3.9%
722.75	4.5% ad val.	4.4%	4.2%	4.1%	4%	3.8%	3.7%	3.5%	3.4%
722.78	12.5% ad val.	11.6%	10.6%	9.7%	8.8%	7.8%	6.9%	5.9%	5%
722.80	9.5% ad val.	9%	8.6%	8.1%	7.6%	7.1%	6.7%	6.2%	5.7%
722.82	9.5% ad val.	8.8%	8.1%	7.4%	6.7%	5.9%	5.2%	4.5%	3.8%
722.83	4% ad val.	3.9%	3.8%	3.7%	3.6%	3.4%	3.3%	3.2%	3.1%
722.85	13.5% ad val.	12.7%	11.9%	11%	10.2%	9.4%	8.6%	7.7%	6.9%
722.86	5.5% ad val.	5.1%	4.7%	4.3%	3.9%	3.6%	3%	2.6%	2.2%
722.88	10c per lb. + 8.5% ad val.	9.3c/lb. + 8%	8.7c/lb. + 7.5%	8.1c/lb. + 7%	7.5c/lb. + 6.5%	6.9c/lb. + 6%	6.2c/lb. + 5.5%	5.6c/lb. + 5%	5c/lb. + 4.5%
722.90	9.5% ad val.	8.8%	8.1%	7.4%	6.7%	5.9%	5.2%	4.5%	3.8%
722.92	9.5% ad val.	8.8%	8.1%	7.4%	6.7%	5.9%	5.2%	4.5%	3.8%
722.94	5% ad val.	4.8%	4.7%	4.5%	4.4%	4.2%	4%	3.9%	3.7%
722.96	5% ad val.	4.8%	4.7%	4.5%	4.4%	4.2%	4%	3.9%	3.7%
723.05	5% ad val.	4.8%	4.7%	4.5%	4.4%	4.2%	4%	3.9%	3.7%
723.10	0.05c per 16.5 sq. in.	0.04c/16.5 sq. in.	0.04c/16.5 sq. in.	0.03c/16.5 sq. in.	0.03c/16.5 sq. in.	0.02c/16.5 sq. in.	0.01c/16.5 sq. in.	Free	Free
723.15	5% ad val.	4.8%	4.7%	4.5%	4.4%	4.2%	4%	3.9%	3.7%
723.20	7.5% ad val.	6.9%	6.4%	5.8%	5.3%	4.7%	4.1%	3.6%	3%
723.25	7.5% ad val.	7.2%	6.9%	6.5%	6.2%	5.9%	5.6%	5.2%	4.9%
723.30	5% ad val.	4.8%	4.7%	4.5%	4.4%	4.2%	4%	3.9%	3.7%
723.32	4% ad val.	3.9%	3.8%	3.7%	3.6%	3.4%	3.3%	3.2%	3.1%
723.35	3.5% ad val.	3.4%	3.3%	3.2%	3.2%	3.1%	3%	2.9%	2.8%
724.10	0.48c per lin. ft.	0.42c/lin. ft.	0.36c/lin. ft.	0.3c/lin. ft.	0.24c/lin. ft.	0.18c/lin. ft.	0.12c/lin. ft.	0.06c/lin. ft.	Free
724.12	0.4c per lin. ft.	0.37c/lin. ft.	0.35c/lin. ft.	0.32c/lin. ft.	0.3c/lin. ft.	0.27c/lin. ft.	0.25c/lin. ft.	0.22c/lin. ft.	0.2c/lin. ft.
724.20	0.5c per lin. ft.	0.46c/lin. ft.	0.42c/lin. ft.	0.39c/lin. ft.	0.35c/lin. ft.	0.31c/lin. ft.	0.27c/lin. ft.	0.24c/lin. ft.	0.2c/lin. ft.

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

ATTACHMENT C

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9101		Wrist watches, pocket watches and other watches, including stop watches, with cases of precious metal or of metal clad with precious metal:				
		Wrist watches, battery powered, whether or not incorporating a stop watch facility:				
9101.11		With mechanical display only:				
9101.11.40	00	Having no jewels or only one jewel in the movement	No.	51¢ each + 4.2½% on the case and strap, band or bracelet + 5.3% on the battery		$3.25 each + 45% on the case + 80% on the strap, band or bracelet + 35% on the battery
9101.11.80	00	Other	No.	87¢ each + 4.2½% on the case and strap, band or bracelet + 5.3% on the battery		$3.25 each + 45% on the case + 80% on the strap, band or bracelet + 35% on the battery
9101.12.00	00	With opto-electronic display only	No.	3.9% on the movement, case and strap, band or bracelet + 5.3% on battery		35%
9101.19		Other:				
9101.19.40	00	Having no jewels or only one jewel in the movement	No.	51¢ each + 4.2½% on the case and strap, band or bracelet + 5.3% on the battery		$3.25 each + 45% on the case + 80% on the strap, band or bracelet + 35% on the battery
9101.19.80	00	Other	No.	87¢ each + 4.2½% on the case and strap, band or bracelet + 5.3% on the battery		$3.25 each + 45% on the case + 80% on the strap, band or bracelet + 35% on the battery

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9101 (con.)		Wrist watches, pocket watches and other watches, including stop watches, with case of precious metal or of metal clad with precious metal (con.):				
		Other wrist watches, whether or not incorporating a stop watch facility:				
9101.21		With automatic winding:				
9101.21.40	00	With over 17 jewels in the movement.	No.....	$2.30 each + 6.25% on the case and strap, band or bracelet		$11.50 each 45% on the case + 80% on the strap, ban or bracele
9101.21.80	00	Other.....	No.....	$2.30 each + 6.25% on the case and strap, band or bracelet		$5.75 each + 45% on the case + 80% on the str band or bracelet
9101.29		Other:				
9101.29.10	00	Having no jewels or only one jewel in the movement.....	No.....	51¢ each + 6.25% on the case and strap, band or bracelet		$2.25 each + 45% on the case + 80% on the strap, ban or bracele
9101.29.20	00	Having over 1 jewel but not over 7 jewels in the movement.....	No.....	87¢ each + 6.25% on the case and strap, band or bracelet		$3.25 each + 45% on the case + 80% on the strap, ban or bracele
		Having over 7 jewels but not over 17 jewels in the movement:				
		With movement valued not over $15 each:				
9101.29.30	00	With movement measuring not over 15.2mm.....	No.....	$2.83 each + 6.25% on the case and strap, band or bracelet		$6.75 each 45% on the case + 80% on the strap, ban or bracele
9101.29.40	00	With movement measuring over 15.2mm.....	No.....	$2.60 each + 6.25% on the case and strap, band or bracelet		$6.75 each 45% on the case + 80% on the strap, ban or bracele
9101.29.50	00	With movement valued over $15 each.....	No.....	$1.27 each + 6.25% on the case and strap, band or bracelet		$6.75 each 45% on the case + 80% on the strap, ban or bracele
9101.29.60	00	Having over 17 jewels in the movement.....	No.....	$2.30 each + 6.25% on the case and strap, band or bracelet		$11.50 each 45% on the case + 80% on the strap, ban or bracele

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

[1] 91-6

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty		
				General	Special	2
9101 (con.)		Wrist watches, pocket watches and other watches, including stop watches, with cases of precious metal or of metal clad with precious metal (con.):				
		Other:				
9101.91		[1] Battery powered:				
9101.91.20	00	With opto-electronic display only	No.	3.9% on the movement and case + 5.3% on the battery [1]		35%
		Other:				
9101.91.40	00	Having no jewels or only one jewel in the movement	No.	51¢ each + 6% on the case + 5.3% on the battery [1]		$1.25 each + 45% on the case + 35% on the battery [1]
9101.91.80	00	Other	No.	87¢ each + 6% on the case + 5.3% on the battery [1]		$3.25 each + 45% on the case + 35% on the battery [1]
9101.99		Other:				
9101.99.20	00	Having no jewels or not over 7 jewels in the movement	No.	51¢ each + 6% on the case		$2.25 each + 45% on the case
		Having over 7 but not over 17 jewels in the movement:				
9101.99.42	00	With movement valued not over $15 each	No.	$1.93 each + [1] 6% on the case		$6.75 each + [1] 45% on the case
9101.99.60	00	With movement valued over $15 each	No.	$1.27 each + [1] 6% on the case		$6.75 each + [1] 45% on the case
9101.99.80	00	Having over 17 jewels in the movement	No.	$2.30 each + 6% on the case		$11.30 each + 45% on the case

Heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9102		Wrist watches, pocket watches and other watches, including stop watches, other than those of heading 9101:				
9102.11		Wrist watches, battery powered, whether or not incorporating a stop watch facility: With mechanical display only:				
		Having no jewels or only one jewel in the movement:	—			
		With strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated:				
9102.11.10	00	With gold- or silver-plated case	No	44¢ each + 6% on the case + 14% on the strap, band or bracelet + 5.3% on the battery		$1.90 each + 45% on the case + 1[illegible] on the strap, b[illegible] or bracelet + 35% or the batt[illegible]
9102.11.25	00	Other	No	40¢ each + 8.5% on the case + 14% on the strap, band or bracelet + 5.3% on the battery		$1.70 each + 45% on the case + [illegible] on the strap, [illegible] or bracelet + 35% on the bat[illegible]
		Other:				
9102.11.30	00	With gold- or silver-plated case	No	44¢ each + 6% on the case + 2.8% on the strap, band or bracelet + 5.3% on the battery		$1.90 each + 45% on the case + on the strap, or bracelet + 35% on battery
9102.11.45	00	Other	No	40¢ each + 8.5% on the case + 2.8% on the strap, band or bracelet + 5.3% on the battery		$1.70 each + 45% on the case + on the strap, or bracelet + 35% on battery
		Other:				
		With a strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated:				
9102.11.50	00	With gold- or silver-plated case	No	80¢ each + 6% on the case + 14% on the strap, band or bracelet + 5.3% on the battery		$3.90 each + 45% on the case + on the strap, or bracelet + 35% on battery
9102.11.65	00	Other	No	76¢ each + 8.5% on the case + 14% on the strap, band or bracelet + 5.3% on the battery		$3.70 each + 45% on the case + on the strap or bracelet + 35% on the b[illegible]

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

91-8

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty		
				1		2
				General	Special	
9102 (con.)		Wrist watches, pocket watches and other watches, including stop watches, other than those of heading 9101 (con.):				
9102.11 (con.)		Wrist watches, battery powered, whether or not incorporating a stop watch facility (con.):				
		With mechanical display only (con.):				
		Other (con.)				
		Other:				
9102.11.70	00	With gold- or silver-plated case	No.	80¢ each + 6% on the case + 2.8% on the strap, band or bracelet + 5.3% on the battery		$2.90 each + 45% on the case + 35% on the strap, band or bracelet + 35% on the battery
9102.11.95	00	Other	No.	74¢ each + 8.5% on the case + 2.8% on the strap, band or bracelet + 5.3% on the battery		$2.70 each + 45% on the case + 35% on the strap, band or bracelet + 35% on the battery
9102.12.00	00	With opto-electronic display only	No.	3.9% on the movement, case and strap, band or bracelet + 5.3% on the battery		35%
9102.19		Other:				
		Having no jewels or only one jewel in the movement:				
9102.19.20	00	With strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated	No.	40¢ each + 6% on the case + 14% on the strap, band or bracelet + 5.3% on the battery		$1.70 each + 45% on the case + 110% on the strap, band or bracelet + 35% on the battery
9102.19.40	00	Other	No.	40¢ each + 6% on the case + 2.8% on the strap, band or bracelet + 5.3% on the battery		$1.70 each + 45% on the case + 35% on the strap, band or bracelet + 35% on the battery

Heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9102 (con.)		Wrist watches, pocket watches and other watches, including stop watches, other than those of heading 9101 (con.):				
		[1] Wrist watches, battery powered, whether or not incorporating a stop watch facility (con.):				
		Other (con.):				
		Other:				
9102.19.40	00	With straps, bands or bracelets of textile material or of base metal, whether or not gold- or silver-plated	No.	74¢ each + 6% on the case + 14% on the straps, bands or bracelets + 5.3% on the battery [1]		$2.70 each + 45% on the case + 110% on the straps, bands or bracelets + 35% on the battery
9102.19.80	00	Other	No.	74¢ each + 6% on the case + 2.8% on the straps, bands or bracelets + 5.3% on the battery [1]		$2.70 each + 45% on the case + 35% on the straps, bands or bracelets + 35% on the battery
		Other wrist watches, whether or not incorporating a stop watch facility:				
9102.21		With automatic winding:				
		With over 17 jewels in the movement:				
9102.21.20	00	With straps, bands or bracelets of textile material or of base metal, whether or not gold- or silver-plated	No.	$2.19 each + 6% on the case + 14% on the straps, bands or bracelets		$10.93 each + 45% on the case + 110% on the straps, bands or bracelets
9102.21.40	00	Other	No.	$2.19 each + 6% on the case + 2.8% on the straps, bands or bracelets		$10.93 each + 45% on the case + 35% on the straps, bands or bracelets
		Other:				
9102.21.60	00	With straps, bands or bracelets of textile material or of base metal, whether or not gold- or silver-plated	No.	$2.19 each + [1] 6% on the case + 14% on the straps, bands or bracelets		$5.20 each + [1] 45% on the case + 110% on the straps, bands or bracelets
9102.21.80	00	Other	No.	$2.19 each + [1] 6% on the case + 2.8% on the straps, bands or bracelets		$5.20 each + [1] 35% on the case + 35% on the straps, bands or bracelets

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

91-10

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty		
				1		2
				General	Special	
9102 (con.)		Wrist watches, pocket watches and other watches, including stop watches, other than those of heading 9101 (con.):				
		Other wrist watches, whether or not incorporating a stop watch facility (con.):				
9102.29		Other:				
		Having no jewels or only one jewel in the movement:				
9102.29.05	00	With strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated	No.	40¢ each + 4% on the case + 14% on the strap, band or bracelet		$1.70 each + 45% on the case + 110% on the strap, band or bracelet
9102.29.10	00	Other	No.	40¢ each + 6% on the case + 2.8% on the strap, band or bracelet		$1.70 each + 45% on the case + 35% on the strap, band or bracelet
		Having over one jewel but not over 7 jewels in the movement:				
9102.29.15	00	With strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated	No.	70¢ each + 6% on the case + 14% on the strap, band or bracelet		$2.70 each + 45% on the case + 110% on the strap, band or bracelet
9102.29.20	00	Other	No.	70¢ each + 6% on the case + 2.8% on the strap, band or bracelet		$2.70 each + 45% on the case + 35% on the strap, band or bracelet

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

Heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9101 (con.)		Wrist watches, pocket watches and other watches, including stop watches, other than those of heading 9101 (con.):				
		Other wrist watches, whether or not incorporating a stop watch facility (con.):				
9101.29 (con.)		Other (con.):				
		Having over 7 but not over 17 jewels in the movement:				
		With movement valued not over $15 each:				
		With movement measuring not over 15.2mm:				
9101.29.35	00	With straps, bands or bracelets of textile material or of base metal, whether or not gold- or silver-plated	No.	92.74 each + 6% on the case + 14% on the strap, band or bracelet		94.20 each + 35% on the case + 110% on the strap, band or bracelet
9101.29.30	00	Other	No.	92.74 each + 6% on the case + 2.8% on the strap, band or bracelet		94.20 each + 35% on the case + 35% on the strap, band or bracelet
		With movement measuring over 15.2mm:				
9101.29.35	00	With straps, bands or bracelets of textile material or of base metal, whether or not gold- or silver-plated	No.	92.29 each + 6% on the case + 14% on the strap, band or bracelet		94.20 each + 35% on the case + 110% on the strap, band or bracelet
9101.29.40	00	Other	No.	92.29 each + 6% on the case + 2.8% on the strap, band or bracelet		94.20 each + 35% on the case + 35% on the strap, band or bracelet

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

[1] 91-17

Heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9102 (con.)		Wrist watches, pocket watches and other watches, including stop watches, other than those of heading 9101 (con.):				
		Other wrist watches, whether or not incorporating a stop watch facility (con.):				
9102.29 (con.)		Other (con.):				
		Having over 7 but not over 17 jewels in the movement (con.):				
		With movement valued over $15 each:				
9102.29.45	00	With strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated....	No.....	$1.16 each + [2] 6% on the case + 14% on the strap, band or bracelet		$4.20 each + [2] 6% on the case + 110% on the strap, band or bracelet
9102.29.50	00	Other.....	No.....	$1.16 each + [2] 6% on the case + 2.8% on the strap, band or bracelet		$4.20 each + [2] 6% on the case + 35% on the strap, band or bracelet
		Having over 17 jewels in the movement:				
9102.29.55	00	With strap, band or bracelet of textile material or of base metal, whether or not gold- or silver-plated.....	No.....	$1.19 each + 6% on the case + 14% on the strap, band or bracelet		$10.95 each + 6% on the case + 110% on the strap, band or bracelet
9102.29.60	00	Other.....	No.....	$2.19 each + 6% on the case + 2.8% on the strap, band or bracelet		$10.95 each + 6% on the case + 35% on the strap, band or bracelet

Heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9102 (con.)		Wrist watches, pocket watches and other watches, including stop watches, other than those of heading 9101 (con.):				
		Other:				
9102.91		Battery powered:				
9102.91.30	00	With opto-electronic display only...	No.....	3.9% on the movement and case + 5.3% on the battery (1)		35%
		Other:				
9102.91.40	00	Having no jewels or only one jewel in the movement.....	No.....	40¢ each + 6% on the case + 5.3% on the battery (1)		$1.70 each + 45% on the case + 35% on the battery (1)
9102.91.80	00	Other.....	No.....	70¢ each + 6% on the case + 5.3% on the battery (1)		$2.70 each + 45% on the case + 35% on the battery (1)
9102.99		Other:				
9102.99.20	00	Having no jewels or not over 7 jewels in the movement.....	No.....	40¢ each + 6% on the case		$1.70 each + 45% on the case
		Having over 7 but not over 17 jewels in the movement:				
9102.99.40	00	With movement valued not over $15 each.....	No.....	$1.84 each + (1) 6% on the case		$4.20 each + (1) 45% on the case
9102.99.60	00	With movement valued over $15 each.....	No.....	$1.16 each + (1) 6% on the case		$4.20 each + (1) 45% on the case
9102.99.80	00	Having over 17 jewels in the movement.....	No.....	$2.19 each + 6% on the case		$10.95 each + 45% on the case

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

91-14

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty		
				1		2
				General	Special	
9103		Clocks with watch movements, excluding clocks of heading 9104:				
9103.10		❶ Battery powered:				
9103.10.20		With opto-electronic display only.....	.....	3.9% on the movement and case + 5.3% on the battery ❶		35%
	40	Travel clocks.....	No.			
	80	Other.....	No.			
		Other:				
9103.10.40		Having no jewels or only one jewel in the movement.....	.....	36¢ each + 6.9% on the case + 5.3% on the battery ❶		$1.50 each + 45% on the case + 35% on the battery ❶
	40	Travel clocks.....	No.			
	80	Other.....	No.			
9103.10.80		Other.....	.....	72¢ each + 6.9% on the case + 5.3% on the battery ❶		$2.50 each + 45% on the case + 35% on the battery ❶
	40	Travel clocks.....	No.			
	80	Other.....	No.			
9103.90.00		Other.....	.....	36¢ each + 6.9% on the case		$1.50 each + 45% on the case
	40	Travel clocks.....	No.			
	80	Other.....	No.			

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9104.00		Instrument panel clocks and clocks of a similar type for vehicles, aircraft, spacecraft or vessels:				
		With clock movements measuring over 50mm in width or diameter:				
9104.00.05	00	Valued not over $10 each: With opto-electronic display only....	No.....	3.9% on the movement and case + 5.3% on the battery	Free (B)	35%
		Other:				
9104.00.10	00	Electric (including battery operated).....	No.....	30¢ each + 6.4% on the movement and case + 5.3% on the battery	Free (B)	83 each + 45% on the movement and case + 35% on the batter
9104.00.20	00	Other.....	No.....	30¢ each + 6.4%	Free (B)	83 each + 45%
		Valued over $10 each:				
9104.00.25	00	With opto-electronic display only....	No.....	3.9% on the movement and case + 5.3% on the battery	Free (B)	35%
		Other:				
9104.00.30	00	Electric (including battery operated).....	No.....	45¢ each + 6.4% on the movement and case + 5.3% on the battery	Free (B)	84.50 each 45% on the movement and case + 35% on the batter
9104.00.40	00	Other.....	No.....	45¢ each + 6.4%	Free (B)	84.50 each 45%
		Other:				
9104.00.45	00	With opto-electronic display only.....	No.....	3.9% on the movement and case + 5.3% on the battery	Free (B,C)	35%
		Other:				
9104.00.50	00	Electric (including battery operated).....	No.....	30¢ each + 6.9% on the case + 5.3% on the battery	Free (B,C)	73¢ each + 45% on t case + 3 on the battery
9104.00.60	00	Other.....	No.....	30¢ each + 6.9% on the case	Free (B,C)	73¢ each 45% on t case

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

[1] 91-14

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9105		Other clocks:				
		Alarm clocks:				
9105.11		[1] Battery or AC powered:				
9105.11.40		With opto-electronic display only...	.....	3.9% on the movement and case + 3.3% on the battery[1]		35%
	20	AC only.....	No.			
		Other:				
	40	Travel.....	No.			
	60	Other.....	No.			
9105.11.80		Other.....	.....	30¢ each + 6.9% on the case + 5.3% on battery[1]		75¢ each + 45% on the case + 35% on the battery[1]
	20	AC only.....	No.			
		Other:				
	40	Travel.....	No.			
	60	Other.....	No.			
9105.19		Other:				
		With movement measuring not over 30mm in width or diameter:				
9105.19.10		Not constructed or designed to operate for over 47 hours without rewinding.....	.....	30¢ each + 6.9% on the case		75¢ each + 45% on the case
	40	Travel.....	No.			
	80	Other.....	No.			
		Constructed or designed to operate for over 47 hours without rewinding:				
9105.19.20		Having no jewels or only one jewel.....	.....	60¢ each + 6.9% on the case		$1.75 each + 45% on the case
	40	Travel.....	No.			
	80	Other.....	No.			
9105.19.30		Having over one jewel.....	.....	85¢ each + 5.5¢/jewel over 7 + 7.4% on the case		$2.25 each + 15¢/jewel over 7 + 60% on the case
	40	Travel.....	No.			
		jewels...	No.			
	80	Other.....	No.			
		jewels...	No.			
		Other:				
9105.19.40	00	Valued not over $3 each.....	No.....	13¢ each + 6.4%		$1.30 each + 65%
9105.19.50	00	Valued over $3 each.....	No.....	43¢ each + 6.4%		$4.30 each + 65%

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty		
				1		2
				General	Special	
9101 (con.)		Other clocks: (con.):				
		Wall clocks:				
9105.21		[1] Battery or AC powered:				
9105.21.40		With opto-electronic display only...	.....	3.9% on the movement and 5cents + 5.3% on the battery [1]		35%
	40	AC only.....	No.			
	80	Other.....	No.			
9105.21.80		Other.....	.....	30cents each + 6.9% on the case + 5.3% on the battery [1]		75cents each + 45% on the case + 35% on the battery [1]
	40	AC only.....	No.			
	80	Other.....	No.			
9105.29		Other:				
		With movement measuring not over 50mm in width or diameter:				
9105.29.10	00	Not constructed or designed to operate for over 47 hours without rewinding.....	No.....	30cents each + 6.9% on the case		75cents each + 45% on the case
		Constructed or designed to operate for over 47 hours without rewinding:				
9105.29.20	00	Having no jewels or only one jewel.....	No.....	60cents each + 6.9% on the case		$1.75 each 45% on the case
9105.29.30	00	Having over one jewel..... jewels...	No.....v No.	85cents each + 5.5cents/jewel over 7 + 7.4% on the case		$3.25 each 15cents/jewel over 7 + 60% on the case
		Other:				
9105.29.60	00	Valued not over $5 each.....	No.....	15cents each + 6.4%		$1.50 each 45%
9105.29.90	00	Valued over $5 each.....	No.....	45cents each + 6.4%		$4.50 each 45%

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

91-18

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9105 (con.):		Other clocks (con.):				
		Other:				
9105.91		1/ Battery or AC powered:				
9105.91.40		With opto-electronic display only...	.....	3.9% on the movement and case + 5.3% on the battery 1/		35%
	40	AC only.....	No.			
	80	Other.....	No.			
9105.91.80		Other.....	.....	30¢ each + 6.9% on the case + 5.3% on the battery 1/		75¢ each + 45% on the case + 35% on the battery 1/
	40	AC only.....	No.			
	80	Other.....	No.			
9105.99		Other:				
9105.99.10	00	Standard marine chronometers having spring-detent escapements....	No.....v	36¢ each + 5% + 3¢/		84.50 each + 65% + 23¢/
		jewels...	No.	jewel		jewel
		Other, with movement measuring not over 50mm in width or diameter:				
9105.99.20	00	Not constructed or designed to operate for over 47 hours without rewinding.....	No.....	30¢ each + 6.9% on the case		75¢ each + 45% on the case
		Constructed or designed to operate for over 47 hours without rewinding:				
9105.99.30	00	Having no jewels or one jewel.....	No.....	60¢ each + 6.9% on the case		$1.75 each + 45% on the case
9105.99.40	00	Having over one jewel.....	No.....v	83¢ each + 5.3¢/jewel		$3.25 each + 15¢/jewel
		jewels...	No.	over 7 + 7.6% on the case		over 7 + 60% on the case
		Other:				
9105.99.50	00	Valued not over $3 each.....	No.....	13¢ each + 6.6%		$1.50 each + 65%
9105.99.60	00	Valued over $3 each.....	No.....	43¢ each + 6.6%		$4.50 each + 65%

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

91-

Heading	Stat. Suf-fix	Articles Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9104		Time of day recording apparatus and apparatus for measuring, recording or otherwise indicating intervals of time, with clock or watch movement or with synchronous motor (for example, time registers, time-recorders):				
9104.10.00	00	Time registers; time-recorders.....	No.....X, No. jewels...	45¢ each + 7% + 2.5¢/jewel		$4.30 each + 65% + 25¢/jewel
9104.20.00	00	Parking meters.....	No.....Y No. jewels...	45¢ each + 7% + 2.5¢/jewel		$4.30 each + 65% + 25¢/jewel
9104.90.00	00	Other.....	No.....Y No. jewels...	45¢ each + 7% + 2.5¢/jewel		$4.30 each + 65% + 25¢/jewel
9107.00		Time switches with clock or watch movement or with synchronous motor:				
9107.00.40	00	Valued not over $5 each.....	No.....Y No. jewels...	15¢ each + 4% + 2.5¢/jewel		$1.30 each + 65% + 25¢/jewel
9107.00.80	00	Valued over $5 each.....	No.....Y No. jewels...	45¢ each + 6.4% + 2.5¢/jewel		$4.30 each + 65% + 25¢/jewel

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

91-70

Heading	Stat. Suffix	Articles Description	Units of Quantity	Rates of Duty		
				1		2
				General	Special	
9108		Watch movements, complete and assembled:				
		(1) Battery powered:				
9108.11		With mechanical display only or with a device to which a mechanical display can be incorporated:				
9108.11.40	00	Having no jewels or only one jewel	No.	36¢ each + 5.3% on the battery (1)		$1.30 each + 35% on the battery (1)
9108.11.80	00	Other	No.	72¢ each + 5.3% on the battery (1)		$2.50 each + 35% on the battery (1)
9108.12.00	00	With opto-electronic display only	No.	3.9% on the movement + 5.3% on the battery (1)		35%
9108.19		Other:				
9108.19.40	00	Having no jewels or only one jewel	No.	36¢ each + 5.3% on the battery (1)		$1.30 each + 35% on the battery (1)
9108.19.80	00	Other	No.	72¢ each + 5.3% on the battery (1)		$2.50 each + 35% on the battery (1)
9108.20		With automatic winding:				
9108.20.40	00	Having over 17 jewels	No.	$2.15 each		$10.75 each
9108.20.80	00	Other	No.	$2.15 each		$5.00 each
9108.91		Other:				
		Measuring 33.8mm or less:				
9108.91.10	00	Having no jewels or only one jewel	No.	36¢ each		$1.50 each
9108.91.20	00	Having over one jewel but not over 7 jewels	No.	72¢ each		$2.50 each
		Having over 7 jewels but not over 17 jewels:				
		Valued not over $15 each:				
9108.91.30	00	Measuring not over 15.2mm	No.	$2.70 each (1)		$4 each (1)
9108.91.40	00	Measuring over 15.2mm	No.	$2.25 each (1)		$4 each (1)
9108.91.50	00	Valued over $15 each	No.	$1.12 each (1)		$4 each (1)
9108.91.60	00	Having over 17 jewels	No.	$2.15 each		$10.75 each
9108.99		Other:				
9108.99.20	00	Having no jewels or not over 7 jewels	No.	36¢ each		$1.50 each
		Having over 7 but not over 17 jewels:				
9108.99.40	00	Valued not over $15 each	No.	$1.80 each (1)		$4 each (1)
9108.99.60	00	Valued over $15 each	No.	$1.12 each (1)		$4 each (1)
9108.99.80	00	Having over 17 jewels	No.	$2.15 each		$10.75 each

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	1 Special	2
9109		Clock movements, complete and assembled:				
		(1) Battery or AC powered:				
9109.11		Of alarm clocks:				
9109.11.10		With opto-electronic display only...	.....	3.9% on the movement + 5.3% on the battery (1)		35%
	40	AC only.....	No.			
	80	Other.....	No.			
		Other:				
9109.11.20		Measuring not over 50 mm in width or diameter.....	.....	30¢ each + 5.3% on the battery (1)		75¢ each 35% on th battery (1)
	40	AC only.....	No.			
	80	Other.....	No.			
		Other:				
9109.11.40		Valued not over $5 each...	.....	15¢ each + 6.4% on the movement + 5.3% on the battery (1)		$1.50 each 65% on th movement 35% on th battery (1)
	40	AC only.....	No.			
	80	Other.....	No.			
9109.11.60		Valued over $5 each.....	.....	45¢ each + 6.4% on the movement + 5.3% on the battery (1)		$4.50 eac 65% on t movement 35% on t battery (1)
	40	AC only.....	No.			
	80	Other.....	No.			

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

[illegible]-II

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty		
				1		2
				General	Special	
9109 (con.)		Clock movements, complete and assembled (con.):				
		[illegible] Battery or AC powered (con.):				
9109.19		Other:				
9109.19.10		With opto-electronic display only...	.....	3.9% on the movement + 5.3% on the battery [illegible]	Free (A)	25%
	40	AC only.....	No.			
	80	Other.....	No.			
		Other:				
9109.19.20		Measuring not over 50mm in width or diameter.....	.....	30¢ each + 5.3% on the battery [illegible]	[illegible] Free (A)	75¢ each + 35% on the battery [illegible]
	40	AC only.....	No.			
	80	Other.....	No.			
		Other:				
9109.19.40		Valued not over $5 each...	.....	15¢ each + 6.4% on the movement + 5.3% on the battery [illegible]	Free (A)	$1.50 each + 65% on the movement + 35% on the battery [illegible]
	40	AC only.....	No.			
	80	Other.....	No.			
9109.19.60		Valued over $5 each.....	.....	45¢ each + 6.4% on the movement + 5.3% on the battery [illegible]	Free (A)	$4.50 each + 65% on the movement + 35% on the battery [illegible]
	40	AC only.....	No.			
	80	Other.....	No.			
9109.90		Other:				
9109.90.20	00	Measuring not over 50mm in width or diameter.....	No.....	30¢ each	Free (A,C)	75¢ each
		Other:				
9109.90.40	00	Valued not over $5 each.....	No.....	15¢ each + 6.4%	Free (A)	$1.50 each + 65%
9109.90.60	00	Valued over $5 each.....	No.....	45¢ each + 6.4%	Free (A)	$4.50 each + 65%

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

Heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9110		Complete watch or clock movements, unassembled or partly assembled (movement sets); incomplete watch or clock movements, assembled; rough watch or clock movements:				
		If watches:				
9110.11.00	00	Complete movements, unassembled or partly assembled (movement sets).....	No.....	The column 1 rate applicable to the complete, assembled movement		The column rate applicable to the complete, assembled movement
9110.12.00	00	Incomplete movements, assembled.....	No.....	9%		45%
9110.19.00	00	Rough movements.....	No.....	9%[1]		45%[1]
9110.90		Other:				
9110.90.20	00	Complete movements, unassembled or partly assembled (movement sets).....	No.....	The column 1 rate applicable to the complete, assembled movement	Free (B)	The column rate applicable to the complete, assembled movement
		Other:				
9110.90.40	00	Consisting of two or more pieces or parts fastened or joined together.....	No.....	6.4% + 2.5¢/jewel + 0.3¢ for each other piece or part, but if consisting in part of a plate or a set of plates the total duty shall not exceed the column 1 duty for the complete movement	Free (B)	65% + 25¢/jewel + 3¢ for each other piece or part, but if consisting in part of a plate or a set of plates the total duty shall not exceed the column 1 duty for the complete movement
9110.90.60	00	Other.....	X.....	6.4%	Free (B)	65%

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9111		Watch cases and parts thereof:				
9111.10.00	00	Cases of precious metal or of metal clad with precious metal	No.	15¢ each + 4%		75¢ each + 45%
9111.20		Cases of base metal, whether or not gold- or silver-plated:				
9111.20.20	00	Gold- or silver-plated	No.	8¢ each + 6%		40¢ each + 45%
9111.20.40	00	Other	No.	4¢ each + 8.5%		20¢ each + 45%
9111.80.00	00	Other cases	No.	4¢ each + 8.5%		30¢ each + 45%
9111.90		Parts:				
9111.90.40	00	Of precious metal or of metal clad with precious metal	No.	8%		75¢ each + 45%
		Other:				
9111.90.50	00	Bezels, backs and centers	No.	1¢ each + 8.5%		10¢ each + 45%
9111.90.70	00	Other	No.	8.1%		45%
9112		Clock cases and cases of a similar type for other goods of this chapter, and parts thereof:				
9112.10.00	00	Cases of metal	No.	6.9%	Free (B)	45%
9112.80.00	00	Other cases	No.	6.9%	Free (B)	45%
9112.90.00	00	Parts	X.	6.9%	Free (B)	45%
9113		Watch straps, watch bands and watch bracelets, and parts thereof:				
9113.10.00	00	Of precious metal or of metal clad with precious metal	X.	14%		110%
9113.20		Of base metal, whether or not gold- or silver-plated:				
9113.20.40	00	Straps, bands and bracelets	No.	14%		110%
9113.20.80	00	Parts	X.	11%		110%
9113.90		Other:				
9113.90.40	00	Of textile material	X.	9%		78.5%
9113.90.80	00	Other	X.	2.8%		35%

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

91-

Heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
9114		Other clock or watch parts:				
9114.10		Springs, including hair-springs:				
9114.10.40	00	For watches	No.	11%		65%
9114.10.80	00	Other	No.	6.4%	Free (B)	65%
9114.20.00	00	Jewels	No.	Free		10%
9114.30		Dials:				
9114.30.40	00	Not exceeding 50mm in width	No.	0.5¢ each + 9%	Free (B)	3¢ each + 45%
9114.30.80	00	Exceeding 50mm in width	No.	6.4%	Free (B)	30%
9114.40		Plates and bridges:				
9114.40.20	00	Watch movement bottom or pillar plates or their equivalent	No.	18¢ each		75¢ each
9114.40.40	00	Any plate, or set of plates, suitable for assembling thereon a clock movement	No.	13¢ each	Free (B)	38¢ each
		Other:				
9114.40.60	00	For watches	X	11%		65%
9114.40.80	00	Other	X	6.4%	Free (B)	65%
9114.90		Other:				
		Assemblies and subassemblies for watch or clock movements consisting of two or more pieces or parts fastened or joined inseparably together:				
9114.90.15	00	For watch movements	X	9%		45%
9114.90.16	00	Balance assemblies, consisting of a balance staff, balance wheel and hairspring, with or without other parts commercially known as parts of a balance assembly	No.	7¢/assembly		50¢/assembl
9114.90.20	00	Other assemblies and subassemblies	X	9%		45%
9114.90.30	00	For clock movements	X	6.4% + 2.5¢/jewel + 0.3¢ for each other piece or part, but if consisting in part of a plate or a set of plates the total duty shall not exceed the column 1 duty for the complete movement	Free (B)	65% + 25¢/jewel + 3¢ for each other piece or part, but if consist ing in par of a plate or a set o plates the total dut shall not exceed the column 2 duty for the complete move ment
		Other:				
9114.90.40	00	For watches	X	11%		65%
9114.90.50	00	Other	X	6.4%	Free (B)	65%

When imp[illegible] the basis [illegible] weight from the platisters, [illegible] assessment basis for [illegible] 9114.90.15 [illegible] 721.70 to 721.9[illegible]. [illegible] rate for 9114.90.15 [illegible] 9114.90.20 disappears and the shall be assigned [illegible] 9114.90.[illegible]

STATEMENT OF THE AMERICAN WATCH ASSOCIATION

SUMMARY

The American Watch Association (AWA), a trade association representing approximately 40 U.S. watch companies, urges the Committee on Ways and Means to reject H.R. 2028 and H.R. 2029.

Comments on H.R. 2028

1. *The bill is discriminatory in its impact.*—Designed on its face to remove watches from the list of products proscribed from the GSP program, H.R. 2028 would in practice benefit The Philippines principally, where only a few and perhaps only one large watch company has a major facility. Watch producers in other countries such as Hong Kong, Taiwan and Korea would probably be denied benefits for a variety of reasons.

2. *Developing countries do not need special treatment.*—LDCs account for 83% of U.S. watch imports already.

3. *H.R. 2028 would injure other companies.*—Watches from The Philippines would enjoy a 69-cent duty savings, or $1.75–$2.40 at retail, a huge competitive advantage for watches that now sell from $20–$50 at retail.

4. *The bill would seriously injure the U.S. Virgin Islands watch industry.*—Tied to the U.S. minimum wage, the V.I. industry—a product of Congress' duty-free General Headnote 3(a) program to promote light industry in the U.S. insular possessions—would be severely damaged and quite likely not survive competition with Far East producers enjoying duty-free benefits, with the resultant loss of hundreds of jobs in St. Croix.

Comments on H.R. 2029

1. *Deletion of special marking requirements for watches would hurt efforts to prosecute watch counterfeiters.*—H.R. 2029 would eliminate all special country-of-origin marking requirements for watches. By doing so, U.S. trademark owners will have even more difficulty than now in detecting and prosecuting watch counterfeiters.

2. *H.R. 2029 would deprive the Customs Service of a tool to assure compliance with its import regulations.*—Special marking requirements assist Customs in administering its country-of-origin interpretations when watches are imported containing components from more than one foreign country—a common occurrence. This problem would be especially acute where Russian watch components and higher Column 2 rates of duty are involved.

STATEMENT

In this statement, the American Watch Association expresses its strong opposition to two legislative proposals under consideration by the Committee on Ways and Means:

(1) H.R. 2028—a bill to remove watches from the list of products that are proscribed from eligibility for duty-free tariff treatment under the Generalized System of Preferences (GSP).

(1) H.R. 2029—a bill to delete the special marking requirements for watches in Headnote 4, Schedule 7, part 2, subpart E of the Tariff Schedules of the United States.

The American Watch Association (AWA) is a trade association of approximately 40 United States companies engaged in the importation, assembly and manufacture of watches and watch movements for sale in the U.S. and world markets. AWA members include the great majority of major companies in the U.S. watch industry, companies that sell both inexpensive and higher priced watches. Moreover, AWA members include the companies which produce a majority of the watches assembled in the U.S. Virgin Islands under the duty-free provisions of General Headnote 3(a) of the Tariff Schedules of the United States. AWA members include the firms which market such well-known brands as Armitron, Baume & Mercier, Bulova, Casio, Citizen, Concord, Corum, Ebel, Hamilton, Helbros, Jaz, Lasalle, Longines, Lorus, Marcel, Movado, Omega, Piaget, Pulsar, Rado, Rolex, Ronda, Seiko, Swatch, Universal Geneve, Wittnauer and many others.

Comments on H.R. 2028

1. *H.R. 2028 is discriminatory in its impact.*—In light of our membership and the highly international nature of the watch industry, the AWA supports the freest possible flow of trade in watch articles, including steps to reduce remaining tariffs on watches and watch movements. However, it is one thing to endorse an even-handed general reduction in rates of duty, and another to propose legislation such as H.R.

2028, that would grant selective duty-free tariff benefits to only a handful of less developed countries with watch industries.

The legislation appears to be custom-tailored to assist at most a few and perhaps only one watch company to the practical exclusion of the remainder of the industry. In theory, developing countries such as Hong Kong, Taiwan, South Korea, Singapore and The Philippines would receive important advantages for their established watch industries. In reality, many of these countries would be denied eligibility for GSP treatment. Hong Kong—which shipped $269 million in watches and watch movements to the U.S. in 1984—almost certainly would be disqualified on the basis of the "competitive needs" tests in Section 504 of the Trade Act of 1974. Moreover, countries such as Taiwan and Korea appear to be vulnerable to complaints that GSP benefits should be withheld because those countries have allegedly failed to cooperate with the United States in seeking to halt the flow of counterfeit watches.

That would leave The Philippines—which shipped 6,343,356 finished watches and 41,134 watch movements to this country last year—as the only substantial beneficiary of H.R. 2028. There was at best only a few and perhaps only one watch company of any size in The Philippines which would thus be the only real beneficiary(ies) of this legislation.

2. *LDCs do not need special treatment for watches.*—The U.S. watch market is not dominated by products from such industrialized countries as Japan and Switzerland. Instead, the great majority of imported watches originate in developing countries. Based on 1984 government statistics, 83 percent of total imports—122.9 million of 147.4 million units—were shipped from Hong Kong, Taiwan, Singapore and The Philippines. Obviously, developing countries do not need a legislative fillip to augment their existing commercial success.

3. *H.R. 2028 would injure other companies.*—The bill would benefit a very small number of companies and perhaps only one company to the considerable detriment of other U.S. companies competing at the lower end of the market. These benefits would be concentrated in the area of quartz analog watches where the company(ies) benefiting from the legislation place greatest marketing emphasis, as the following representative examples demonstrate (sample prices below reflect average unit values of Philippines imports based on Commerce Department import data for 1984):

	Dutiable value	Estimated duty	Duty savings as percent of value
a. Solid-state digital watch:			
Watch module	$3.13	$0.12	3.9
Watch case	2.54	.10	3.9
Total	5.67	.22	3.9
b. Quartz-analog watch (0–1 jewel):			
Watch movement	2.95	.36	12.2
Goldplate case	4.23	.33	7.8
Total	7.18	.69	9.6

Clearly, H.R. 2028 would provide these watch companies with a substantial benefit, especially for its quartz analog watch imports. The $0.69 estimated duty savings for these watches, when multiplied 2.5 to 3.5 times at the retail level can be expected to give companies an enviable $1.73 to $2.42 advantage over their competitors in the $20–$50 segment of the watch market.

4. *The bill will seriously injure the U.S. Virgin Island watch industry.*—While certain watch companies might be able to adjust to the selective advantages afforded by H.R. 2028, one segment of the industry will plainly be hurt without recourse to a remedy: the duty-free watch assembly industries in the U.S. Virgin Islands and Guam. These industries, with the support of Congress have begun a modest revival, shipping 2.2 million watches and watch movements to the United States in 1984. (It is interesting to note that 60.5 percent of these articles were watch movements requiring casing and other value-added operations in the United States; by contrast, only 0.6 percent of watch products from The Philippines were movements.) The V.I. watch assembly industry the second largest manufacturing sector in that insular possession.

At this time, the Virgin Islands watch industry is in a precarious state, dependent on statutory production-labor incentives enacted in 1982 to balance the industry's commitment to a minimum wage standard paralleling the U.S. wage of $3.35 an

hour. Enactment of H.R. 2028 would tip the balance against the U.S. possessions and probably kill that industry at last.

In summary, H.R. 2028 is bad legislation and should be rejected.

Comments on H.R. 2029

The bill would delete the following language of TSUS Headnote 4, Schedule 7, part 2, subpart E:

"4. *Special Marking Requirements:* Any movement, case of dial provided for in this subpart, whether imported separately or attached to an article provided for in this subpart, shall not be permitted to be entered unless conspicuously and indelibly marked by cutting, die-sinking, engraving, or stamping, as specified below:

(a) Watch movements shall be marked on one or more of the bridges or top plates to show—

(i) the name of the country of manufacture,

(ii) the name of the manufacturer or purchaser,

(iii) in words, the number of jewels, if any, serving a mechanical purpose as frictional bearings; and

(iv) in words, the number and classes of adjustments, or, if unadjusted, the word "unadjusted".

(b) Clock movements shall be marked on the most visible part of the front or back plate to show—

(i) the name of the country of manufacture,

(ii) the name of the manufacturer or purchaser,

(iii) the number of jewels, if any.

(c) Watch cases shall be marked on the inside or outside of the back cover to show—

(i) the name of the country of manufacture,

(ii) the name of the manufacturer or purchaser,

(d) Clock cases and other cases provided for in this subpart shall be marked on the most visible part of the outside of the back to show the name of the country of manufacture; and

(e) Dials shall be marked to show the name of the country of manufacture.

1. *Deletion of marking requirements would hurt efforts to prosecute counterfeiters.*—H.R. 2029, by deleting the special marking requirements for watches, would aggravate the difficulty that U.S. tradmark owners and law enforcement agencies experience in detecting and prosecuting watch counterfeiters. In a number of instances, U.S. trademark owners, working closely with tradmark owners abroad and law enforcement officials have been able to use the internal markings on the movements contained in counterfeit watches to aid in tracking down the source of those bogus watches. In this manner, although the markings on the movements were not visible to the potential consumer of the watch, they were helpful in detecting the foreign source of counterfeit watches that would have defrauded the American public.

Although special markings cannot always assist in the detection of bogus watches, they play a valuable role in protecting the intellectual property rights of U.S. trademark owners and, in turn, help guard the potential consumer against fraudulent products.

2. *H.R. 2029 would deprive the Customs Service of a tool to assure compliance with import regulations.*—The Customs Service regards watch movements as the "guts" of the complete watch. Accordingly, the country-of-origin marking standards for compliance with Section 304 of the Tariff Act of 1930 is dependent on knowledge of the identity of the country in which the watch movement is produced (i.e., assembled). Moreover, the information with respect to jewel count—another special marking requirement—can be helpful in enforcing U.S. duty rates which are distinguished on the basis of the number of friction-reducing jewel-pivots used in the movement.

Customs Services officials have expressed concern that watches are assembled in one location from parts produced in other countries should conform to a uniform country-of-origin marking standard. In the example of a watch assembled in Hong Kong from a movement assembled in Taiwan, a dial made in Korea and a case made in Japan, the country-of-origin marking to satisfy Section 304 would read Taiwan and would be engraved or stamped on the face of the dial or the outer back of the case. Without the special marking requirements of Section 7, the country of origin of the dial and case would be lost completely, and the country of origin of the movement itself could only be imputed by the Section 304 marking.

Furthermore, Customs officials have indicated that some watches may be entering the United States containing Russian movements but assembled in Hong Kong from cases and dials produced in non-Communist countries. Their concern is that these watches may not be marked properly and, thus, allow the Russian movements to escape the higher tariffs for Column 2 countries.

These Customs officials felt that the special marking requirements for watches should be retained. It is worth pointing out that the deletion of these special marking requirements could trigger import violations by permitting importation of watches with cases and dials made in Column 2 countries, permitting them to escape detection as Column 2 products.

3. *Other watch companies abide by and support marking requirements.*—The other major U.S. watch compaines all observe the special marking requirements of Schedule 7 and feel that the costs of marking and compliance are minuscule compared to the benefits they provide in enhancing their intellectual property rights and protection their reputation in the eyes of the American consumer for a reliable product of qualify. It is difficult to understand why at most a few and perhaps only one watch company do not share this same belief.

In summary, H.R. 2029 should be defeated.

AMERICAN WATCH ASSOCIATION ACTIVE MEMBERSHIP

Arnex/Lucien Piccard
439 Washington Avenue
Carlstadt, N.J. 07072

Bradley Time Division
Elgin National Industries, Inc.
1115 Broadway
New York, N.Y. 10010

Bulova Watch Company, Inc.
Bulova Park
Flushing, N.Y. 11370

Casio, Inc.
15 Gardner Road
Fairfield, N.Y. 07006

Citizen Watch Company
of American, Inc.
1200 Wall Street West
Lyndhurst, N.J. 07071

Ebel U.S.A., Inc.
570 Fifth Avenue
New York, N.Y. 10036

ETA Industries, Inc.
608 Fifth Avenue
Suite 801
New York, N.Y. 10020

E. Gluck Corporation
29–10 Thomson Avenue
Long Island City, N.Y. 11101

Hamilton Watch Co., Inc.
941 Wheatland Avenue
Lancaster, Pa. 17604

Hattori Corporation of America
SPD Precision, Inc.
2 Pearl Ct., Allendale Park
Allendale, N.J. 17604

Lorus Products
West 80 Century Road
Paramus, N.J. 07652

Helbros Watches, Inc.
330 West 34th Street
New York, N.Y. 10011

Holzer Watch Co., Inc.
501 Madison Avenue
New York, N.Y. 10022

Innovative Time Corporation
6054 Corte del Cedro
Carlsbad, CA 92008

Longines-Wittnauer Watch Co.
P.O. Box 2500
New Rochelle, N.Y. 10810

Marcel Watch Corp.
1115 Broadway
New York, N.Y. 10010

North American Watch Corp.
650 Fifth Avenue
New York, N.Y. 10019

Omega Watch Corporation
301 East 57th Street
New York, N.Y. 10022

Rado Watch Co., Inc.
1140 Avenue of the Americas
New York, N.Y. 10036

Rolex Watch U.S.A., Inc.
665 Fifth Avenue
New York, N.Y. 10022

Ronda Watch Corp. of America
390 Fifth Avenue
New York, N.Y. 10018

David G. Steven, Inc.
555 Fifth Avenue
New York, N.Y. 10017

SWATCH Watch U.S.A., Inc.
608 Fifth Avenue
Suite 801
New York, N.Y. 10020

AMERICAN WATCH ASSOCIATION ASSOCIATE MEMBERSHIP

Alsten Packaging & Display
for Jewelry
34 Exchange Place
Jersey City, N.J. 07302

Arrow Manufacturing Co., Inc.
567 - 52nd Street
West New York, N.Y. 07903

Bear Enterprises U.S.A., Inc.
6 Melnick Drive
Monsey, NY. 10952

Bufkor, Incorporated
588 Monroe Street
Buffalo, N.Y. 14211

International Packaging Group
517 Mineral Spring Avenue
Pawtucket, R.I. 02860

Hirsch U.S.A.
555 Hackensack Avenue
River Edge, N.J. 07666

Margrove Industries
916 East Elizabeth Avenue
Linden, N.J. 07036

Rocket Jewelry Box, Inc.
125 East 144th Street
Bronx, N.Y. 10451

W.M.R. Watch Case Company
1140 Broadway
New York, N.Y. 10001

BELAIR QUARTZ, INC.,
Christiansted, St. Croix, VI, June 26, 1985.

MR. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR SIR: We understand that the above bill is before the Committee on Ways and Means and that we have until tomorrow June 28th, to make our comments as an interested party. We are therefore sending this letter to you by Express Mail so that it will reach you in time.

We are a Virgin Islands watch assembler since 1962 and we employ at the present time between 40 and 50 people. We have in the past employed as many as 70 at times, but for those on our staff now we have provided steady work without layoff and we have taught them the highest skills of watchmaking and assembling electronic watches.

We are shocked that the Committee is considering to give watches duty free treatment under G.S.P. The Philippines would benefit where there is only one facility to the best of our knowledge. This would be a disadvantage to all the other watch producing countries in the world. It would put the Virgin Islands watch industry completely out of business and this is a viable industry on which the Islands have come to depend.

We therefore respectfully request that the Committee turn down this request and omit watches from preferential treatment as has been the case right along.

It would destroy the Virgin Islands watch industry which is struggling to survive and which provides work and skills for American citizens. Such a step would not even benefit the consumer because an advantage to a singly entity without competition never results in lower prices to the consumer.

We respectfully ask you to reconsider and are gladly at your disposal for any further information you may require.

Very truly yours,

I. GRUNWALD, *Vice President.*

STATEMENT OF ANDREW H. TISCH, PRESIDENT, BULOVA WATCH CO., INC.

Andrew H. Tisch, President of Bulova Watch Company, Inc., a New York State corporation, having its principal offices at No. 75-20 Astoria Boulevard, Jackson Heights, New York 11370, submits this statement on behalf of Bulova Watch Company, Inc., in opposition to the proposed legislation designated as H.R. 2028 and H.R. 2029.

The first bill, H.R. 2028, proposes to remove watches from the list of products that are prohibited from eligibility for duty-free tariff treatment under the Generalized System of Preferences (GSP). GSP benefits a wide range of developing countries, but

such bill would tend to benefit watches from the Philippines only, rather than the more prominent watch-producing areas of Taiwan, South Korea or Hong Kong. The latter three areas would probably be denied, for several reasons, GSP benefits. Accordingly, only one company, Timex, with a major watch facility in the Philippines, could take advantage of such legislation at this time. This bill was designed to benefit one company, and is discriminatory.

H.R. 2029 proposes to eliminate the special marking requirements for watches and clocks set forth in Headnote 4, Schedule 7, Part 2, Subpart E, of the Tariff Schedules of the United States. Among the most significant requirements of such law is the necessity of separately marking, in permanent fashion, each imported watch and clock movement, case and dial with the name of the country of manufacture.

The absence of such markings may tend to lead to consumer fraud by creating the impression that a foreign-made part or entire foreign-made watch or clock was made domestically. The proposed bill, if adopted, would constitute a step toward the erosion of the traditional requirement that foreign-made products be so designated. Consumer protection agencies, such as the Federal Trade Commission, have stated that a product unmarked as to country of origin is assumed to be of domestic manufacture, and the consumer makes this assumption.

There are outmoded requirements in the aforementioned Headnote 4, such as the reference to "adjustments" or "unadjusted", which may be eliminated, but the country-of-manufacture requirement should remain.

Bulova Watch Company, Inc. strongly urges that both H.R. 2028 and H.R. 2029 be rejected.

STATEMENT OF RON DE LUGO, M.C., FOFO I.F. SUNIA, M.C., AND BEN BLAZ, M.C.

Our comments center on the importance of maintaining the incentive to the U.S. insular areas under Headnote 3(a) of the Tariff Schedules of the United States. Three of the miscellaneous tariff bills before the Subcommittee affect this program: H.R. 2225, which we support, and H.R. 2028 and 1720, both of which we oppose.

Generally

Guam, American Somoa, and the Virgin Islands have been afforded the benefits of Headnote 3(a) for decades. Recently, the Northern Mariana Islands were extended this benefit under the Covenant through which it opted to become a part of the United States. The intent has been to help these U.S. entities achieve their goal of economic self-sufficiency. To encourage economic strength comparable to other areas of the United States has been at the center of this country's policy with regard to these insular areas. The obstacles facing any industry on remote islands with few resources are great, and without federal incentives, the obstacles are often insurmountable.

We have a growing concern, in the face of textile regulations and legislative proposals to restrict access to textile and ethanol production, that, as mainland industries fight for greater trade restrictions, the need to continue the trade incentives for our insular areas and the fact that these incentives exist because they are American jurisdictions may get lost in the fervor of protectionism. We hope that both the Interior and Insular Affairs Committee and the Ways and means Committee can continue to work together to assure that Congress' stated policy and responsibility to the insular areas weighs in the balance of interests expressed by other U.S. constituencies.

I. H.R. 2225, relating to customs treatment of certain wearing apparel produced in insular areas of the United States.

Last year an amendment passed the House that would have clarified the fact that the trade preference extended to the insular areas under Headnote 3(a) is not subject to the authority granted to the President under section 204 of the Agriculture Act of 1956. The President used this authority as the basis for Executive Order 12475, which led to the textile regulations issued last year. The application of these regulations to products entering the customs territory under Headnote 3(a) has undermined the textile industry in the insular areas.

We can appreciate the concerns raised by mainland textile manufacturers with regard to their inability to compete with foreign labor. What we continue to ask is that the interests of U.S. industry in the insular areas also be considered. The textile industry in the U.S. insular areas has not had any significant impact on the mainland industry. This historical fact should tip the balance in favor of continuing the textile industry in the insular areas, regardless of what limitations may be set on imports from other parts of the globe.

It is important to maintain the level of textile production which is currently providing needed jobs and revenue in Guam and the Northern Mariana Islands. Passage of H.R. 2225 will ensure the current duty-free status of certain wearing apparel produced in the Guam and Northern Mariana textile operations. We urge you to support this legislation.

II. H.R. 1720, to ensure payment of the regular duties imposed on imported ethyl alcohol and payment of the additional duty imposed on ethyl alcohol when imported for use in producing a mixture of gasoline and alcohol or used otherwise as fuel.

We oppose this proposal. H.R. 1720 seeks to impose a duty on goods that would otherwise enter the customs territory duty-free under the provisions of Headnote 3(a). As we have noted, there are few industries which will locate offshore, even with the incentives offered under Headnote 3(a). Similarly, the one noteable success under the Caribbean Basin Initiative has been the opening of the Tropicana ethanol plant in Jamaica, West Indies. If production of ethanol is foreclosed under the Caribbean Basin Initiative, we send a message to this area that we did not intend any meaningful development under the Initiative: the minute a mainland industry sees that it may have to share the market, proposals abound to close the door.

Like Tropicana in Jamaica, ethanol producers are also interested in locating in the Virgin Islands. While the distillation process in Jamaica, and that proposed for the Virgin Islands, is not a labor intensive operation, the Virgin Islands needs the investment. With the closing of one of its two major employers, the Martin Marietta Alumina plant, with the resulting loss of 500 jobs, and the cut backs in production by its other major employer, Hess Oil Refinery, at a loss thus far of 300 jobs, the Virgin Islands needs whatever investment it can get. Ethanol production is one of those limited industries available to that U.S. territory. With the growing demand for high octane, lead-free gasoline, the ethanol market is due to increase signficantly. Consistent with this country's policy towards its own insular jurisdictions and its policy towards the nations of the Caribbean, this market must be shared. This means that the distillation process which meets the requirements of Headnote 3(a) and the Caribbean Basin Initiative, and which is therefore consistent with the incentives intended by their respective preferences, must not be foreclosed.

III. H.R. 2028, to render watches eligible for preferential treatment under title V of the Trade Act of 1974.

Watches should remain on the list of articles ineligible for duty-free treatment under the Generalized System of Preferences (GSP). The Committee rejected a similar proposal offered in last year's miscellaneous trade mark-up by our colleague, Mr. Anthony. The same conclusion should abide this year. The major watch producer under Headnote 3(a), the Virgin Islands, can ill-afford, for the reasons stated above, to lose this industry. Guam also has a watch manufacturer, and another has shown interest in locating in the Northern Mariana Islands. None of these firms will be in the U.S. insular areas if H.R. 2028 is adopted.

Last year, in response to arguments made by the mainland watch company interested GSP treatment for watches, Mr. de Lugo distributed to Members of the Committee a statement which we believe still makes a strong case favor of maintaining the status quo. That statement, which includes background on the watch program, is attached. It is clear from the statement that, if GSP treatment is granted for watches, the U.S. insular areas will not be able to compete. In essence, we would be sacrificing American jobs in the insular areas in order to enhance the economic development of South Korea and Taiwan. This, we submit, is inappropriate.

IV. In conclusion, we urge our colleagues on the Subcommittee, to enact H.R. 2225, and to reject H.R. 1720 and H.R. 2028. We ask that you consider the importance to the economic futures of the Headnote 3(a) incentive to its beneficiaries. Headnote 3(a) was created because the U.S. insular areas need it in order to attract industry. This duty-free treatment offered under the program suggests no threat of undue access to the United States by foreign countries, if for no other reason than the insular areas can only accomodate limited production. Furthermore, as the limited use of Headnote 3(a) to date demonstrates, there are few industries that consider the incentives offered under Headnote 3(a) sufficient to offset the advantages of low wages and limited regulation offered by foreign countries.

[ATTACHMENT]

WATCHES SHOULD REMAIN ON THE LIST OF ARTICLES INELIGIBLE FOR DUTY-FREE TREATMENT UNDER THE GENERALIZED SYSTEM OF PREFERENCES (GSP)

A paper has recently been circulated mistating facts about the Virgin Islands watch industry and making erroneous conclusions as to the effect of removing

watches from the list of items ineligible for GSP treatment. This paper corrects the record. Reference is made to Timex because it is believed that that company is a major proponent of the change.

The earlier paper states that all of the Virgin Islands watch companies are Swiss affiliates, while, in fact, four of the six Virgin Islands firms are affiliated with United States firms. It adds that there are 246 workers in the Virgin Islands watch industry, but there are 327 and this is exclusive of the support services generated on the mainland by the Virgin Islands watch industry, such as packaging, marketing, distribution and repair.

The earlier paper concludes that the Virgin Islands watch industry would not be harmed by GSP entry from lesser developed countries (LDC's) because Virgin Islands watches retail at prices higher than the sale price on watches entering from LDC's. This is not true. Watches from LDC's would compete within the price range of Virgin Islands watches, to the clear disadvantage of this domestic industry. Furthermore, the duty-free entry of watches under GSP would replace the share of the market held by Virgin Islands watch producers.

1. Background.—The last Congress passed legislation, P.L. 97-446, to revitalize the Virgin Islands watch industry which had gone into decline as a result of the change in demand from jewelled to quartz watches. The quartz watches have few, if any, jewels and thus are subject to low duties. Thus, the Headnote 3(a) duty-free entry incentive was not sufficient to offset production of watches in locations which could offer wages of one-fifth the United States minimum wage. Timex is one of the companies that decided to terminate its Virgin Islands watch production for this reason.

To restore the industry's competitiveness, P.L. 97-446 eliminated the foreign content requirement and through the production incentive certificate introduced parity in the cost of watch assembly in the territories. Without the latter, the watch industry in the Virgin Islands would not survive.

If watches can enter duty-free under GSP, then once more the incentive for operating in the Virgin Islands would be removed.

2. While the Virgin Islands is not under the 35% value added required under GSP, it is important to note that the labor requirements for the Virgin Islands are clearly enforceable by the United States.

The 35% value added criterion would be more stringent if it were being enforced directly by United States authorities. It is not, of course, but depends on certification by foreign (self-interested) governments. Consequently, the Headnote 3(a) requirements are in fact more demanding than the GSP test.

3. The argument is made that Virgin Islands watches are not competitive with watches from LDC countries which retail at an average of $15 and Timex watches retailing at an average of $25, becaue they retail at an average of $60 per watch.

But the range of watch prices in the Virgin Islands is $14 to $150. The paper which was circulated, significantly, discusses only Timex's average retail price, not its pricing range, which, at the higher price end is more than $25. Thus, duty-free GSP watches will directly compete with a large portion of the Virgin Islands watch production.

In any event, consumer tastes in the watch market are quite fluid, and there can be no doubt that the bottom of the line purchase, in a statistically significant portion of cases, is a permanent loss of purchases at the middle or high segment of the market.

4. Why is it important to protect the Virgin Islands watch industry? The Virgin Islands watch industry is the only remaining domestic watch industry. Furthermore, its survival is an important aspect of federal policy to bolster the economies of its territories and to afford them a clear advantage, as parts of the American family, over foreign jurisdictions to which the United States is committed to lending a helping hand through programs such as GSP.

Also it is important to keep in mind a sense of scale. Sacrificing the Virgin Islands watch industry to the economic development needs of South Korea and Taiwan would be a blow to the small Virgin Islands economy comparable to the total loss of auto manufacturing to the national economy.

5. In conclusion.—The alleged advantages of the Headnote 3(a) treatment of watches are meaningless unless Virgin Islands producers can sell their watches. If duty-free watches enter, the Virgin Islands will not be able to compete.

By moving the question of eligibility for GSP treatment of watches into the administrative arena, the Virgin Islands watch industry would cease permanently and quickly. Quite literally, Virgin Islands producers would close-up shop and start importing from Asia. Note the following:

(a) Timex, a major proponent of this change, clearly expects to receive GSP treatment from one or more countries, despite the obvious impact on the domestic watch industry located in the Virgin Islands, otherwise, why this effort.

(b) No one can guarantee the action of a future administration.

(c) Merely making GSP eligibility a matter for administrative discretion may deal a fatal blow to the Virgin Islands watch industry. Investor confidence will be seriously shaken by knowledge that the industry can be destroyed by a single hasty ruling.

ATTACHMENT A

The Virgin Islands watch industry consists of six companies, four of which are affiliated with U.S. companies and two of which are affiliated with Swiss companies. All are located on the island of St. Croix:

1. Progress Watches, 102 employees, located next to Alexander Hamilton Airport. Swiss affiliate.
2. Unitime Industries, 47 employees, located near Sunny Isles Shopping Center. Swiss affiliate.
3. Master Time, 100 employees, located in city of Christiansted, affiliated with Helbros watches of New York, a 100% U.S. firm.
4. Belair Time, 40 employees, located in city of Christiansted, affiliated with Belair of New York, a 100% U.S. firm.
5. Hampden Watch, 38 employees, located on Centerline Road, affiliated with Clinton/Benrus of Chicago, a 100% U.S. firm.
6. Tropex, Inc., a new firm which received an allocation in August 1984. It is affiliated with Jules Jurgensen of Philadelphia, a 100% U.S. firm.

This is contrary to the argument made in the earlier paper which suggested that the Virgin Islands watch industry only consists of five companies employing 246 workers, instead of the 327 noted above, and which stated that all of the companies were Swiss affiliates.

HELBROS WATCHES, INC.
New York, NY, June 26, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. DOWLEY: I am writing to you in my capacity as Chief Executive Officer of the Helbros Watch Company, regarding Bill HR 2028, which would render preferential treatment under Title 5 of the Trade Act of 1974.

Most of our manufacturing is currently done by our subsidiary company, Master Time Company, Ltd., located in St. Croix, U.S. Virgin Islands. We are, therefore, an interested party to the aforementioned legislation.

We have been in the Virgin Islands since 1962, and over the last three years we have made a substantial capital investment in plant facilities and training workers. Currently, we have more than 125 workers in St. Croix, located in three factories. We are very dedicated to this operation, and feel a large responsibility to the island and its residents. We provide year-round employment, with no seasonal layoffs. And we produce quality products for consumption in the United States, made by American workers. We are also cooperating with local governmental agencies to provide training for local people, and we work closely with the union leadership of our factory, to ensure that we have the highest quality assembly of watches possible.

Based on my understanding of the proposed legislation, I think it is safe to say that were this legislation to be passed, it would go a long way towards putting the Virgin Islands watch industry directly out of business. This would result in the loss of at least 125 jobs at Master Time Company, Ltd., as well as the incremental jobs which we might be adding in the near future. (We have added more than 50 jobs over the last two years.)

With this in mind, I hope you will help to ensure that our point of view is aired in any pre-vote forum which is appropriate.

We believe that the legislation is directed as it stands at supporting a single manufacturer, in their endeavor to make foreign products more price-acceptable to the U.S. market. I fail to see where this is in keeping with the spirit or purpose of the present government and administration.

Thank you very much for your consideration.
Very truly yours,

MARK L. KALLAN,
Chief Executive Officer.

LONGINES-WITTNAUER WATCH CO.,
New Rochelle, NY, June 7, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. DOWLEY: It has come to our attention that the House Ways and Means Committee will shortly consider two bills (H.R. 2028 and H.R. 2029) sponsored by Representatives Anthony, Kennelly and Rowland. Both bills deal with "watches" and both are designed to provide a discriminatory advantage to Timex.

We are concretely opposed to both bills.

By permitting duty-free entry of watches under the Generalized System of Preferences (as proposed in H.R. 2028), the House would grant Timex—and Timex only—an unfair trade advantage in the marketplace. The bill would favor watch imports from the Philippines where Timex has a principal assembly plant. Hong Kong, South Korea and Taiwan (sources of most imported watches) would likely be excluded due to the volume limits of the Trade Act of 1974 and/or non-support of the 1984 anti-counterfeiting amendment.

Such advantage being available to Timex would cause serious harm to the greater portion of the American Watch Industry.

In addition to the damage proposed in H.R. 2028, a more serious threat is posed by H.R. 2029.

The elimination of special marking requirements for watches opens a serious potential for customer fraud, eliminates any possible protection against the gray market in watches and certainly increases the potential of counterfeits.

In short, Mr. Dowley, we oppose H.R. 2028 and H.R. 2029 for the damage these bills would inflict upon our industry, our company, our customers and on the consuming public.

We request the Committee give consideration to our position, and remain.
Very truly yours,

JOHN L. DAVIS, *President.*

LORUS PRODUCTS,
Paramus, NJ, June 18, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, DC

DEAR MR. DOWLEY: There are two bills that are expected to be considered by The House Ways and Means Committee, namely HR2028 and HR2029. It is my opinion that both of these bills will affect many firms within the watch industry. As past Chairman of the American Watch Association and currently actively involved in the industry, I feel that it is important that you consider my thoughts on both of these bills.

Regarding HR2028, Changes within the Generalized System of Preferences (GSP), the purpose of this bill is, I believe, to benefit certain developing countries in Asia by removing watches from the list of products that are prohibited from eligibility from duty-free tariff treatment by GSP. It is apparent that the main beneficiary from this would be the Philippines, a country where Timex has a major facility. Since Timex is the apparent initiator of this bill, it would seem that they alone would be helped in their business as a result of this legislation being adopted. To my knowledge no other company in the industry has a facility or uses the Philippines as a source for watch import. Therefore, the bill would be highly preferential to one company and, thus, unfair to the industry.

There is, however, a major concern if that legislation is adopted. Specifically, it would very strongly negatively affect the watch assembling industry in the Virgin Islands and Guam. Much legislation has taken place over the years to build these U.S. possessions. Inducements have been granted to American companies to invest in these areas and they have done so. There are many U.S. manufacturers currently assembling product in the Virgin Islands and Guam. Their investments were protected as a result of being granted duty-free status when shipping into the U.S.

Mainland. Opening the door for the Philippines to be a source of duty-free status can strongly affect the business activity in the Virgin Islands and Guam. As you know, this is an area we have, over the years, constantly tried to support and bolster Passage of HR2028 would really hurt the economic situation of both possessions. I urge you not to permit this proposed legislation to pass.

Concerning HR2029, Elimination of Special Marking Requirements, as you know, a major issue in Washington today is the parallel or gray market. While there are two sides to this argument and a decision will one day be made as to what the law will permit, passage of this proposed legislation would further confuse this issue and foster the additional gray market activity which now takes place, all of which, in my opinion, hurts the U.S. consumer.

Let me explain my reasoning. Current regulations insist that watch movements must have the name of the manufacturer or importer permanently marked. The proposal to eliminate these markings means that there is no other way to identify the product's country of origin. It does not protect the consumer in their knowledge of where the watch was made, giving them an opportunity to decide for themselves whether they wish to own a watch produced in a particular country. Obviously, without a marking a watch could be passed off as a Swiss watch, or a Japanese watch, which in reality could be a watch made in some less developed country under less stringent technological quality controls.

Most consumers do not realize that there is no longer a U.S. watch industry and various importers could conceivably mislead the consumer by suggesting that the watches are made in the U.S. Those watch companies, I am certain, would like to perpetuate that idea to the U.S. consumer. Elimination of markings would provide that opportunity.

In summary, it is my feeling that it is the U.S. consumer and citizens and those territories under U.S. jurisdiction that would be hurt should either of these two pieces of proposed legislation be made into law.

I want to thank The House Ways and Means Committee for giving the above their consideration.

Very truly yours,

MORTIMER GERSHMAN, *President.*

NEW YORK, NY, *June 26, 1985.*

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR SIR: Only today we were informed that the above bill is before the Committee on Ways and Means and that we have until tomorrow, June 28, 1985, to voice our opinion as an interested party.

I am sending you this letter on behalf of Progress Watch Co., Inc., St. Croix, US Virgin Islands, for which I am the acting Secretary.

Progress Watch Co., Inc. is the largest US Virgin Islands watch assembler, employing at the present time, as third largest insular employer, between 90 and 100 people. Our employment provides steady work and training in an otherwise economical disadvantaged area. Since 1978 Progress Watch Co., Inc. has taught, without outside financial assistance hundreds of people the skills of watchmaking and assembling of electronic watch movements/components.

We are surprised that the committee is this year again considering to give watches a duty-free treatment under GSP. Although same proposal has been defeated last year, it is again being introduced this year.

Bill HR 2028 is plainly discriminatory and tailored to benefit, to our knowledge, only one facility in the Philippines. This bill would disadvantage all other watch producing countries in the world, and further, the bill is designed to be a major threat to the survival of the US Insular Possessions duty-free watch assembly industries in the US Virgin Islands and Guam.

The viability of those industries depends on a maintenance of the differential between US Virgin Island benefits and duties on direct imports.

The proposed bill HR 2028 would eliminate the differential and thus destroy the US Virgin Island watch industry.

We respectfully ask that the Committee turns down bill HR 2028 and omit watches from preferential treatment, as has been the case in the past.

Sincerely yours,

PAUL R. SUTTER,
Secretary of Progress Watch Co., Inc.

SPD PRECISION, INC.,
Allendale, NJ, June 20, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. DOWLEY: In this letter I would like to give you my comments regarding two bills that are expected to be considered this summer by The House Ways and Means Committee—HR2028 and HR2029. Both of these bills deal with some very important legislation, which we feel will affect many firms within the watch industry. As Chairman of the American Watch Association and as President of an important firm in the industry, I feel I must express my comments on these bills.

H.R. 2028—CHANGES WITHIN THE GENERALIZED SYSTEM OF PREFERENCES (GSP)

It is my understanding that this bill is supposed to benefit certain developing countries in Asia by removing watches from the list of products that are prohibited from eligibility from duty-free tariff treatment under GSP. However, after looking at the countries that would be benefited, it appears that the main beneficiary would be the Philippines, which turns out to be the country where Timex has a major facility. It is my understanding that Timex is the instigator of this bill and it is surprising to find that although the bill appears on the face of it to help many developing countries, it is specifically earmarked to help Timex. This would give Timex a very unfair competitive edge to the rest of the industry, who to the best of my understanding, do not have any facilities in the Philippines.

In addition, this bill would be very unfair to the watch assembling industry in the Virgin Islands and Guam. The companies in these U.S. possessions have been assured that by making an investment in the islands, they would have their investments protected by having the unique position of duty free status when shipping into the mainland. With HR 2028, this opens the door for a major corporation such as Timex to now actively compete with the Virgin Islands and Guam manufacturers without making an investment in a U.S. possession and not benefiting U.S. citizens. I think this bill as it stands should definitely not be permitted to pass.

H.R. 2029—ELIMINATION OF SPECIAL MARKING REQUIREMENTS

This is another bill instigated by Timex, which, by eliminating the current marking requirements on watch movements and cases, leaves the door open for importation of counterfeit watches leading to customer fraud. The current regulations insist that the watch movements must have the name of the manufacturer or importer permanently marked. Timex's proposals to eliminate these markings means there is no other way to identify the product except as marked on the outside of the watch as stipulated by the Tariff Act of 1930—Section 302. Therefore, by not having markings on the movements, watch cases can be easily marked Swiss or otherwise on the outside and then there would be no way to trace the origin of the movement, which could lead back to the counterfeiter.

Further to that, I have recently learned that there is a new wave of Russian movements coming into the United States that are assembled in Hong Kong and marked as Hong Kong being the country of origin. In this way they circumvent duty to be paid according to Column 2 of the Tariff Schedules of the United States. By eliminating the marking on the movements completely, it would be almost impossible to trace these movements, which, because they will carry a political price, could hurt the watch importers in this country who import from other countries.

It is my understanding that most major watch firms in the U.S. prefer to keep the current regulations regarding markings as a protection of their property rights. We concur with this feeling. I, therefore, am urging that HR 2029 not be passed.

I trust that my comments will be taken into consideration by the members of The House Ways and Means Committee.

Sincerely,

MILTON H. PUTTERMAN, *President.*

STATEMENT OF RONALD MARSCHING, VICE CHAIRMAN, TIMEX CORP.

STATEMENT IN SUPPORT OF H.R. 2028

SUMMARY

This bill would remove watches from exclusion from GSP because (1) further exclusion of watches no longer protects any remaining domestic watch assembly industry, and because (2) rendering watches eligible for GSP enables U.S. firms to compete more effectively with the Japanese and other Far East competitors, benefits U.S. consumers and U.S. jobs, and provides significant aid to developing countries.

For these reasons, H.R. 2028 should be approved by the Subcommittee on Trade and the Ways and Means Committee.

INTRODUCTION

Under the Trade Act of 1974, Congress authorized the granting of preferential duty-free treatment for developing countries through the Generalized System of Preferences (GSP), but it specifically excluded certain products from the program. Watches were among the excluded products, reflecting Congress' concern at that time that GSP treatment might prove injurious to the domestic watch assembly industry.

Today, the situation is reversed. The domestic watch assembly industry no longer exists and Timex is the last significant watch company left in the U.S. But unless the statute is modified to allow GSP treatment for watches, more of Timex' remaining domestic operations may give way to foreign competition. At stake are the jobs of U.S. workers.

Competition in the watch business has for many years been exceptionally fierce. In the post-World War II years the market was dominated by the Swiss watch industry but U.S. based companies, led by Timex, broke this domination, primarily by applying mass production techniques, thereby lowering the cost of the product to the point where every American could afford a watch.

When consumer products in general changed from primarily mechanical to electronic solid state technology, whole sectors of the U.S. consumer products field came to be dominated by the industries of other countries, principally Japan.

Like other companies, Timex recognized it could not compete effectively if it continued the labor intensive assembly of watches in the U.S. Accordingly, it moved assembly operations to the Far East. Timex, however, did not move its components fabrication or research and development bases to the Far East. In fact, it has consolidated some of its off-shore fabrication activities into its U.S. plants during the past three years.

Nevertheless, Timex witnessed a steady erosion in its U.S. employment from approximately 7,300 in 1976, when the GSP was first implemented, to 4,700 in 1981, when its last domestic assembly operations were moved overseas.

Today, the U.S. watch industry primarily consists of Timex and other significant companies supplying parts to Timex. Timex currently employs 1,600 workers in the manufacture of watch parts, design, research and development and management in the U.S. Of the total costs of sales of watches assembled by Timex overseas for sale in the U.S., approximately 60 percent is U.S. content.

While significant, Timex' U.S. operations are not insulated from continued inroads by Japanese and Hong Kong suppliers, which do not maintain production-related operations in the United States. GSP treatment for watches would bolster Timex' competitiveness, thereby supporting significant U.S. production and U.S. employment, not only for Timex but for its U.S. suppliers as well.

GSP treatment for watches also would be of direct benefit to U.S. consumers, particularly those in the low or middle income ranges who purchase inexpensive watches and would contribute to GSP's basic objectives by assisting the economic development of less developed countries. In this case, GSP for watches is particularly appropriate since duty-free treatment would be available to countries which such as the Philippines (where most of Timex' watch assembly occurs), but not to the most competitive foreign suppliers (i.e., Japan, Switzerland and Hong Kong).[1]

---

[1] Japan and Switzerland are not GSP beneficiary countries. While a beneficiary country, Hong Kong would not be eligible for duty-free treatment (unless it were granted a waiver) since it has consistently exceeded by a wide margin the GSP program's statutory "competitive need" limits on these articles.

There are no disadvantages to granting GSP treatment to watches. Since there is no significant watch assembly remaining in the United States, the tariff no longer serves any protective function. In fact, failure to grant duty-free treatment to watches from GSP countries would be counterproductive to the ability of Timex to compete with foreign manufacturers. In addition, GSP benefits would be restricted to countries which currently account for only 12 percent of total U.S. imports of watches and movements.

Watch assembly operations in the Virgin Islands would not be adversely affected by GSP eligibility for watches. Watches and watch movements from the Virgin Islands, which account for less than 3 percent of U.S. imports, enjoy preferential tariff treatment and other incentives clearly superior to benefits available under the GSP program. Furthermore, watches imported or likely to be imported from GSP beneficiaries are generally at the low end of the U.S. watch market and do not directly compete with the overwhelming majority of watches from the Virgin Islands. The purposes of this bill, maintenance of U.S. employment, low consumer prices and promotion of trade within less-developed countries should not be thwarted by an imaginary threat to the V.I. watch industry.

DISCUSSION

1. U.S. companies and workers would benefit

During the last decade, virtually all U.S. producers of assembled watches have ceased production in the United States as a result of competition from foreign suppliers. Imports now account for virtually all U.S. consumption of watches. The U.S. market is now dominated by Japan, Hong Kong and Switzerland, which together accounted for approximately 84 percent of the value of total U.S. imports of watches and movements in 1984.

Timex is the only company that has retained significant operations within the United States. Headquartered in Connecticut, Timex employs skilled workers in the production of watch parts, case-making, case-plating, design, engineering, research and development, management, and service and repair in its Connecticut and Arkansas facilities.

Granting duty-free GSP treatment to watches would enable Timex to compete more effectively with foreign suppliers. It would help retard, and hopefully arrest, further reductions in Timex' U.S. employment.

The duty savings also would allow Timex to increase its expenditures for research, engineering and technology. Timex' broad technology interface with U.S. manufacturers outside the watch industry includes relationships with well-known U.S. companies involving the development of new applications of technology for consumer products.

Finally, many U.S. suppliers will benefit from increased U.S. watch sales as a direct result of GSP treatment. Timex currently purchases over $200 million in raw materials, components, and operating supplies annually from U.S. producers.[2] For example, Timex purchases $2.6 million of watchbands from Textron (Speidel/BMI), $4 million of watch batteries from firms such as Union Carbide and $1 million of integrated circuits from Hughes Aircraft.

2. U.S. consumers would benefit

Watches produced by Timex and other watch companies in GSP beneficiary countries supply the low end of the U.S. watch market, so duty savings realized through GSP treatment will be of most benefit to low and middle income consumers.

Such duty savings would make it possible for Timex to maintain low prices for U.S. distributors, retailers and consumers, and provide strategic assistance to Timex in its competition with low cost Japanese and Hong Kong watches.

3. Less competitive developing countries would benefit

Granting GSP treatment to watches would help support the economic development of beneficiary countries most in need of such assistance. This is particularly true of the Philippines, where Timex has its principal overseas assembly operation.

Timex employs over 3,000 workers in its watch assembly facility in Cebu, Philippines. Cebu has an unemployment rate approaching 40 percent. The workers, who receive in-depth training to develop their technical skills, assemble Timex parts and styling components into watchheads (watches without straps). These watchheads are

[2] This figure does not include sales-related expenses (e.g., packaging, advertising, transportation, etc.) which might also be incurred by firms that are strictly importers.

then shipped to Timex' Torrington, Connecticut facility where they are fitted with straps and bands and prepared for distribution to customers.

Watch assembly is particularly well-suited to developing countries. The assembly of watches is a very labor-intensive process that can be performed with modest capital investment. Wide-scale automation is not feasible given the rapid turnover in watch design and styles. For these reasons, it is unlikely in the foreseeable future that watch assembly operations would be returned to the United States.

4. The Virgin Islands' industry would not be adversely affected

Watch assembly in the Virgin Islands is very limited, representing less than 3 percent of total U.S. imports in 1984. V.I. watch production consists primarily of minimal assembly of parts fabricated abroad by foreign companies.

The overwhelming majority of watches shipped from the Virgin Islands are mid to high quartz analog watches. Based on market surveys, the average U.S. retail price for five principal V.I. brands was approximately $56 in 1984.[3] This was more that twice the average of $26 paid for Timex watches. Seventy-four percent of all Timex watches are purchased for under $30 while only 8 percent of V.I. watches are under $30. Clearly, the elimination of the duties paid by Timex on watches sourced from GSP beneficiaries is unlikely to affect sales of these V.I. brands to any significant degree.

To the extent that the granting of GSP treatment to watches would have any effect on global patterns of trade, it is more likely to affect Japanese and Hong Kong exports of low-end watches since those are the watches which compete directly with watches imported from GSP beneficiary countries. In any case, potential GSP beneficiaries account for a small percentage of U.S. imports.[4]

Source	Value (millions of dollars)	U.S. import share (percent)
Japan	331.8	36.6
Hong Kong	268.7	29.6
Switzerland	163.1	18.0
Other Non-GSP	12.5	1.4
Subtotal	776.0	85.5
Potential GSP beneficiaries	108.2	11.9
Virgin Islands	23.2	2.6
Total	907.4	100.0

U.S. import statistics help illustrate that watches from the Virgin Islands are a different type than those from potential GSP beneficiaries. In 1984, eleven U.S. import categories accounted for 90 percent of the value of total V.I. shipments to the U.S. Those categories were dominated by Japan, Hong Kong and Switzerland which together accounted for 94 percent of the value of total U.S. imports in those categories.

Japanese or other producers of mid-to high-end watches will not relocate to GSP countries and injure V.I. producers as a result of GSP eligibility. GSP requires 35 percent or more of the direct costs of processing to take place in the beneficiary country.

More expensive watches, similar to those manufactured in the V.I., will have expensive cases which would make it difficult for a producer to achieve the required 35 percent minimum in the beneficiary country to qualify for GSP treatment.

Watch producers in the Virgin Islands receive preferential tariff treatment far superior to that available under the GSP program. In 1983, Congress passed legislation granting duty-free treatment to V.I. watches under liberal quotas (which have significantly exceeded actual V.I. shipments).[5]

In order to qualify for duty-free treatment under these special V.I. provisions, watches do not have to meet the 35 percent value-added requirement incorporated in the GSP program. Instead, V.I. watches are admitted free of duty *regardless* of

[3] Specifically, Benrus, Clinton, Gruen, Helbros and Jules Jorgenson.

[4] 1984 import data compiled from the official statistics of the U.S. Department of Commerce include assembled watches and watch movements.

[5] P.L. 97-446.

their foreign content. Only certain assembly operations and average wage payments of $0.95 per watch are required to qualify.[6]

In addition, V.I. producers receive a significant incentive which is unique in U.S. trade statutes. They can qualify for "Production Incentive Certificates" which can be used by the holder to obtain refunds of U.S. Customs duties paid on imports from any country. As a result of this program V.I. assemblers can recover up to 90 percent of V.I. wages in addition to duty-free entry.

GSP is also fraught with uncertainties and benefits which can be revoked or withheld for numerous reasons outside the manufacturer's control. Such reasons include the "competitive need formula", the "graduation principle", and such political considerations as the GSP country's protection of U.S. intellectual property rights, its access for U.S. exports, its treatment of foreign investments and other conditions. The statutory restraints and conditions governing the program make it unlikely a company would relocate its facilities for the benefits GSP may confer.

5. Caribbean Basin Economic Recovery Act

Fundamental changes have occurred in the assembly and distribution of watches in the U.S. since passage of the Trade Act of 1974. This point was recognized by Congress in 1983 in the passage of the Caribbbean Basin Economic Recovery Act. For that program of preferential tariff measures, Congress maintained all of the product-specific exclusions contained in the original GSP legislation with the exception of watches, which were made eligible for preferential duty-free treatment.

CONCLUSION

As noted above, a broad range of U.S. economic interests would be served by granting GSP treatment to watches. There is virtually no remaining U.S. assembly of watches. Nonetheless, significant related operations continue to be performed in the United States, primarily by Timex. These operations and those of supporting U.S. companies would be strengthened if GSP treatment were to be accorded to watches. This bill represents an opportunity to strengthen these operations and stop the exodus of U.S. companies and technology which has occurred in so many American industries in the last decade.

Conversely, no U.S. watch producers would be adversely affected by the granting of GSP treatment to watches. Producers in the Virgin Islands would not be adversely affected because they already receive benefits more generous than those available under the GSP program and compete in a different segment of the U.S. watch market.

STATEMENT IN SUPPORT OF H.R. 2029

I. Introduction and Summary

H.R. 2029, which would repeal the special marking requirements applicable to watches and clocks in schedule 7 of the Tariff Schedules of the United States, should be approved by the Subcommittee on Trade and the Committee on Ways and Means for the following reasons:

1. The industry the special marking requirements was designed to protect does not exist, since there is no longer a watch-assembly industry in this country.

2. The consumer would not be disadvantaged by the repeal of the special marking requirements. All the markings (with one exception) are inside the watch or clock.

3. The special marking requirements impose an unnecessary cost upon the U.S. consumer, since virtually all watches and clocks sold in this country are assembled abroad.

4. The consumer would continue to be protected by three statutes that would be unaffected by the repeal of the special marking requirements—section 304 of the Tariff Act of 1930, section 5 of the Federal Trade Commission Act, and section 43 of the Lanham Act.

5. The special marking requirements impose an unnecessary burden upon the U.S. Customs Service, since its limited resources must be used to ensure compliance with the requirements.

6. The special marking requirements are already inapplicable to solid-state watches and clocks, which constitute about 70% of all imported watches and clocks. Solid-

[6] These requirements are not applicable to solid-state electronic watches. For these watches, foreign content cannot exceed 70 percent (versus 65 percent under the GSP program). Nonetheless, there is no reported production of electronic watches in the Virgin Islands.

state watches and clocks are now classified under schedule 6 of the Tariff Schedules of the United States.

II. Summary of Special Marking Requirements

Unlike almost all other imports, watches and clocks, and parts thereof, are subject to special marking requirements. Those requirements are set forth in headnote 4 of subpart E of part 2 of schedule 7 of the Tariff Schedules of the United States (TSUS). Headnote 4 contains the following requirements:

(a) Watch and clock movements must be marked with:
  (i) country of origin of the movement
  (ii) name of manufacturer or purchaser of the movement
  (iii) number of jewels, and
  (iv) number of adjustments (watch movements only).
(b) Watch cases must be marked with:
  (i) country of origin of the case, and
  (ii) name of manufacturer or purchaser of the case.
(c) Clock cases must be marked with country of manufacture.
(d) Watch and clock dials must be marked with country of origin of the dial.

These requirements apply to finished watches and clocks, as well as parts thereof. Consistent with headnote 4, all the markings (except the country of manufacture of the clock case) are made inside the watch and clock, and are not visible to the ultimate consumer.

III. Discussion

There are significant reasons why H.R. 2029 should be approved by the Subcommittee on Trade and the Committee on Ways and Means. These reasons demonstrate that H.R. 2029 would not harm any domestic industry, but would benefit the consumer and relieve the U.S. Customs Service (Customs) of an unnecessary burden.

1. *The special marking requirements were designed to protect what is now a nonexistent industry.*—The special marking requirements were first enacted in 1909 in paragraph 192 of the Tariff Act of 1909 (36 Stat. (Part 1) 31 (1909–1910)). At that time, foreign-made watches and clocks were competing with U.S. made watches and clocks by a variety of unfair trade practices, including the mislabeling of the country of origin, the manufacturer, and the number of jewels. The special marking requirements were designed to give protection from such practices to U.S. companies manufacturing and assembling watches and clocks in the U.S.

Since the mid-1970's, Timex has been the only U.S. company with significant watch operations in this country. Timex manufactures watch cases in Little Rock, Arkansas, and other parts in Waterbury, Connecticut. These are assembled with other parts in foreign facilities, and the finished watches are then imported by Timex, strapped and packaged in Torrington, Connecticut and then distributed for sale in this country.

Since there is no longer a significant watch-assembly industry in this country, the special marking requirements are no longer fulfilling their original purpose.

2. *The U.S. consumer would not be disadvantaged by the repeal of the special marking requirements.*—As already noted, all the markings (with the one exception) required by the special marking requirements are placed inside the watch and clock. Indeed, as a matter of practice, they are never placed on the outside of the watch and clock. A consumer would have to open the watch or clock to see the special markings.

Repeal of the special marking requirements would therefore not disadvantage the consumer who is not aware of the special markings in any event. Timex believes, as the largest seller of watches in the U.S., that consumers have no interest in the information disclosed by the special markings.

3. *The consumer would continue to be protected by three statutes that ensure authenticity of the watch or clock he buys.*—Repeal of the special marking requirements would not affect the anti-counterfeit provisions of the Tariff Act of 1930, the Federal Trade Commission Act, and the Lanham Act.

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), requires that all imported products, including watches and clocks, be legibly and conspicuously marked on the outside with the country of origin. In the case of watches, Customs considers the country of origin of the movement to be the country of origin of the watch. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) has been construed by the FTC to prohibit the sale of watches and clocks without an indication of their country of origin. Section 43 of the Lanham Act (15 U.S.C. 1125) prohibits the importation of watches and clocks that carry a false designation of the country of origin. Together, these three provisions ensure that the consumer is adequately protected from counterfeiting.

4. *The special marking requirements impose an unnecessary cost upon the consumer.*—As noted above, virtually all watches and clocks sold in the U.S. are assembled abroad. All such foreign watches and clocks must therefore comply with the special marking requirements.

Such compliance entails an additional manufacturing cost which is passed on to U.S. consumers in the form of a higher selling price. This additional and needless cost would be eliminated by the repeal of the special marking requirements.

5. *The special marking requirements impose an unnecessary burden upon the U.S. Customs Service.*—The special marking requirements demand that a certain amount of Customs' resources be devoted to ensuring compliance. Yet, as noted above, these requirements are no longer needed, have no purpose, and simply increase the cost of a watch or clock. Customs' resources are therefore needlessly spent when they might be devoted to a useful purpose.

Customs is already hard-pressed to cope with mounting imports that were valued at about $325 billion in 1984. It is constantly seeking ways to expedite the entry of goods, consistent with the protection of the revenue. The repeal of the special marking requirements would help achieve this goal.

6. *The special marking requirements are already inapplicable to about 70% of imported watches and clocks.*—Until 1982, all watches and clocks were classified in schedule 7 of the TSUS and were therefore subject to the special marking requirements. In *United States* v. *Texas Instruments, Inc.*, 69 CCPA (Customs) 136, 673 F.2d 1375 (1982), the U.S. Court of Customs and Patent Appeals held that solid-state watches and clocks are classifiable under item 688.45 of schedule 6 of the TSUS as electrical articles and parts thereof not specially provided for.

In 1984, about 70% of all watches and clocks imported into the United States were solid-state. The special marking requirements therefore cover less than a third of all imports. Non-applicability of these requirements to solid-state watches and clocks has created no apparent problems, further illustrating that no useful purpose would be served by continuing these requirements for other clocks and watches.

For the foregoing reasons, Timex urges passage of H.R. 2029.

UNITIME INDUSTRIES, INC.,
Christiansted, St. Croix, VI,
June 26, 1985.

MR. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIR: We understand that the above bill is before the Committee on Ways and Means, and we have until tomorrow, June 28, 1985, to make our comments as an interested party. We are therefore sending you this letter by Express Mail so it will reach you in time.

We are a Virgin Islands watch assembler since 1963, and at the present time we employ between 50–60 people. We have in the past employed as many as 110, but for those on our staff now we have provided steady work without layoff, and we have taught them the highest skills of watchmaking and assembling electronic watches.

We are shocked that the Committee is considering to give watches duty-free treatment under GSP. The Philippines would benefit, where there is only one facility to the best of our knowledge, but this would be a disadvantage to all the other watch producing countries in the world. It would put the Virgin Islands watch industry completely out of business, and this is a viable industry upon which the Islands have come to depend.

We therefore respectfully request that the Committee turn down this request and omit watches from preferential treatment as has always been the case. It would destroy the Virgin Islands watch industry, which is struggling to survive, and which provides work and skills for American citizens.

Such a step would not even benefit the consumer, as an advantage to a single entity without competition never results in lower prices to the consumer.

We respectfully ask you to reconsider, and are gladly at your disposal for any further information you may require.

Very truly yours,

KURT SCHALLER, *President.*

H.R. 2056

Relating to the duty on certain knives (commonly known as snap blade tools) having movable blades

U.S. International Trade Commission

Section-by-section analysis

Section 1 would establish a new item in the Tariff Schedules of the United States (TSUS) covering certain knives having movable blades (snap blade knives) and components thereof. It would amend the TSUS by inserting immediately after item 649.67 a new item 649.69, for "knives using snap-off blades which are scored into sections to permit the breaking off of used sections, and/or having mechanisms for advancing the next unused sections into position for use, and blades, handles, and parts thereof." Section 1 would also amend the superior heading to TSUS items 649.71–649.85 by inserting "other than knives provided for in item 649.67;" this language would except the knives covered by the new tariff item from the scope of the superior heading as amended. Section 2 would provide decreasing rates of duty for snap blade knives under either column 1 [1] or the least developed developing countries (LDDC) [2] column of the TSUS during 1984–87. It would also require that these knives be designated under the Generalized System of Preferences (GSP),[3] so that imports from all beneficiary developing countries would receive duty-free treatment. Finally, section 3 of the legislation provides that the amendment made by the first section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of the Act.

Background

Description and uses.—A snap blade knife consists of a plastic or metal handle enclosing a cutting blade lightly scored on one side and about three to four inches in length. By means of an adjustment mechanism (a grooved metal frame with teeth on one side and a spring and/or a set screw) incorporated in the handle, the length of the exposed cutting surface may be varied, giving the tool multiple uses. A unique feature of the tool is that, with the aid of the adjustment mechanism, the end section of the blade may be easily snapped off and a new sharp cutting surface exposed. The tool is primarily used to cut floor board, wallpaper, wall board and carpet.

Purpose.—The legislation would establish separate tariff treatment for the subject knives. Similar bills (H.R. 2851 and S. 2020) were introduced in the 98th Congress.

Prior import investigation

No investigations have been conducted by the Commission or other agencies regarding the subject knives.

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economy Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[3] The GSP affords nonreciprocal tariff preference to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

Comparison with present law

Tariff treatment under the TSUS.—Currently, assembled snap blade knives are classified in TSUS item 649.83, as knives with folding or other than fixed blades or attachments (other than knives with ornamented steel handles) valued over $6.00 per dozen. The 1985 column 1 rate of duty for these knives is 4.0¢ each + 7.4% ad val.;[4] the LDDC rate is 3¢ each + 5.4% ad val.; and the column 2 duty rate [5] is 35¢ each + 55% ad val. The ad valorem equivalent (AVE) of this column 1 rate of duty, based on 1984 imports, is approximately 9.3 percent. Parts of such knives imported separately are classified in TSUS item 649.85, covering blades, handles, and other parts, with a column 1 rate of duty of 1.4¢ each + 7.4% ad val; an LDDC rate of 1¢ each + 5.4% ad val; and a column 2 rate of 11¢ each + 55% ad val. The AVE of this column 1 duty rate, based on 1984 imports, is approximately 27.0 percent. Imports under items 649.83 and 649.85 from beneficiary developing countries are eligible for duty-free entry under the GSP. Imports from designated Caribbean countries are eligible for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).[6] The column 1, LDDC, and column 2 rates of duty currently in effect for the products covered by this legislation are shown in appendix A. The staged reduction in rates of duty negotiated in the Tokyo round of the Multilateral Trade Negotiations for each of the TSUS items covered by this legislation appear in appendix B.

Tariff treatment under the proposed Harmonized System (HS).[7]—The HS commodity code number, the product description, and the rate of duty proposed to be effective upon implementation of the HS for each of the products covered by this legislation are shown in appendix C.[8]

Structure of the domestic industry

There are 3 known domestic firms assembling snap blade knives with foreign components. Industry sources indicate that there are no known domestic manufacturers of complete snap blade knives. These firms, Ardell Industries, Inc. of Union, New Jersey; Metallized Products, St. Petersburg, Florida; and Stanley Tools, New Britain, Conn., are believed to make the blade in the United States and to import from foreign sources the component parts used to make the handle; the knives are then assembled in their plants.

Domestic production

Statistics on domestic production of snap blade knives and components thereof are not publicly available.

U.S. imports

Separate U.S. import data on snap blade knives are not available because they are classified in TSUS item 649.83, a residual or "basket" category. During 1985, total U.S. imports under TSUS item 649.83 amounted to $44 million. It is believed that imports of snap blade knives accounted for approximately 5 percent of total imports under this item. Snap blade knives are imported primarily from Japan.

Apparent consumption

Apparent consumption of snap blade knives is not available.

---

[4] The column 1 rate of duty on imports classified under TSUS item 649.83 has been temporarily reduced as a result of Presidential Proclamation 5140. These temporary rates, which are applicable on a most-favored-nation basis, are provided in appendix A.

[5] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[6] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[7] The Harmonized System is intended to serve as the single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

[8] Source: Trade Policy Staff Committee, *Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System* (September 1984).

U.S. exports

U.S. exports of snap blade knives are not separately reported.

Potential annual loss of revenue

The proposed legislation would reduce the column 1 rate of duty on snap blade knives from an AVE rate of approximately 9.3 percent to the ad valorem rate of 5.9 percent during 1985. Based on estimated imports in 1984, it appears that this change would result in an annual loss of customs revenues of approximately $65,000 in 1985, and that this loss of revenue would decline to about $39,000 by 1987.

Technical comments

First, if the article description of the new item is to be indented, then it is suggested that the item be inserted after 649.65 and designated as 649.66. Second, the column 1 duty rate shown with the new item should appear as "5.9% ad val." rather than 7.5% and the LDDC rate should be "4.3% ad val.", not 5.3%. The first two lines of the duty rate staging table in section 2(a) should be dropped.

Third, it should be noted that the legislation does not provide for the eventual elimination of the LDDC duty rate for the new item. Thus, this rate would eventually be the only LDDC rate in the TSUS.

Finally, it should be observed that GSP status is now afforded administratively after a review process, and that products can be removed from the list of eligible articles based on "competitive need" and other concerns. This could not occur where GSP status is legislatively mandated.

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
			Pen knives, pocket knives, and other knives, all the foregoing which have folding or other than fixed blades or attachments, and blades, handles, and other parts thereof:				
			Knives:				
A	649.71	00	Valued not over 40 cents per dozen	No.	10% ad val.		1.25c each + 50% ad val.
A	649.73	00	Valued over 40 cents but not over 50 cents per dozen	No.	13.8% ad val.	10% ad val.	5c each + 50% ad val.
A	649.75	00	Valued over 50 cents but not over $1.25 per dozen	No.	13.8% ad val.	10% ad val.	11c each + 55% ad val.
A	649.77	00	Valued over $1.25 but not over $3 per dozen	No.	2.4c each + 7.1% ad val.	2c each + 5% ad val.	18c each + 55% ad val.
A	649.79	00	Valued over $3 but not over $6 per dozen	No.	5.4c each + 6.9% ad val.	2.5c each + 5% ad val.	25c each + 50% ad val.
			Valued over $6 per dozen:				
A	649.81	00	With steel handles ornamented or decorated with etchings or gilded designs, or both	No.	2.5c each + 6.9% ad val.	2c each + 5% ad val.	35c each + 55% ad val.
A	649.83	00	Other	No.	4c each + 7.4% ad val.1/	3c each + 5.4% ad val.1/	35c each + 55% ad val.
A	649.85	00	Blades, handles, and other parts	No.	1.4c each + 7.4% ad val.	1c each + 5.4% ad val.	11c each + 55% ad val.
			Budding, grafting, and pruning knives, and blades, handles, and other parts thereof:				
A	649.87	00	Knives	No.	4c each + 7.4% ad val.	3c each + 5.4% ad val.	35c each + 55% ad val.
A	649.89	00	Other	No.	1.4c each + 7.4% ad val.	1c each + 5.4% ad val.	11c each + 55% ad val.
A	649.91		Cuticle or corn knives, cuticle pushers, nail files, nail cleaners, nail nippers and clippers, all the foregoing used for manicure or pedicure purposes, and parts thereof; tweezers		10.6% ad val.	8% ad val.	60% ad val.
		20	Tweezers	No.			
		40	Other	X			
			Knives not specifically provided for elsewhere in this subpart, and cleavers, with or without their handles:				
A	650.01	00	Without their handles	No.	0.26c each + 3.4% ad val.	0.2c each + 2.8% ad val.	8c each + 45% ad val.
	650.03	00	Cleavers with their handles	No.	1.2c each + 5.8% ad val.	1c each + 4.9% ad val.	8c each + 45% ad val.

1/ Duty temporarily reduced. See item 9[illegible].32, part 2, Appendix to the Tariff Schedules, and general headnote 3(d)(ii).

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985)

APPENDIX TO THE TARIFF SCHEDULES
Part 2. - Temporary Modifications Proclaimed Pursuant to Trade-Agreements Legislation

9 - 2 - C
947.15 - 947.32

Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1 Effective on or after January 1, 1986	1985	1986	1987 1/	2
947.15	2/	Other disks, wafers, washers, and stoppers, of cork (provided for in item 220.48, part 2A, schedule 2).....	2/	5.7¢ per lb.	5.4¢ per lb.	5.7¢ per lb.	6¢ per lb.	No change
947.16	2/	Articles not specially provided for, of cork (provided for in item 220.56, part 2A, schedule 2).....	2/	12.6% ad val.	12.6% ad val.	14% ad val.	15.3% ad val.	No change
947.17	2/	Willow prepared for basket makers' use (provided for in item 222.20, part 2B, schedule 2).....	2/	6% ad val.	6% ad val.	6.6% ad val.	7.2% ad val.	No change
947.18	2/	Other willow (provided for in item 222.25, part 2B, schedule 2).....	2/	1.8% ad val.	1.8% ad val.	1.9% ad val.	2.1% ad val.	No change
947.19	2/	Potassium chlorate (provided for item 420.06, part 2C, schedule 4).....	2/	2.6% ad val.	2.5% ad val.	2.6% ad val.	2.8% ad val.	No change
947.20	2/	Tartaric acid (provided for in item 425.94, part 2D, schedule 4).....	2/	3.6% ad val.	3.6% ad val.	3.6% ad val.	3.7% ad val.	No change
947.21	2/	Cream of tartar, containing 90 percent or more potassium bitartrate by weight (provided for in item 426.76, part 2D, schedule 4).....	2/	3.9% ad val.	3.6% ad val.	3.8% ad val.	3.9% ad val.	No change
947.22	2/	Sodium tartrate (Rochelle salts) (provided for in item 426.82, part 2D, schedule 4).....	2/	3.3% ad val.	3.2% ad val.	3.3% ad val.	3.5% ad val.	No change
947.23	2/	Terpin hydrate (provided for in item 437.70, part 3B, schedule 4).....	2/	6.7% ad val.	6.2% ad val.	6.1% ad val.	6% ad val.	No change
947.24	2/	Agar agar (provided for in item 455.02, part 6, schedule 4).....	2/	3.3% ad val.	2.9% ad val.	2.8% ad val.	2.6% ad val.	No change
947.25	2/	Anethol (provided for in item 460.15, part 7A, schedule 4).....	2/	6% ad val.	5.5% ad val.	5.5% ad val.	5.4% ad val.	No change
947.26	2/	Toilet soap valued over 20 cents per pound (provided for in item 466.15, part 7B, schedule 4).....	2/	0.4¢ per lb. + 2.9% ad val.	0.4¢ per lb. + 2.8% ad val.	0.4¢ per lb. + 2.9% ad val.	0.4¢ per + 3.1% ad val.	No change
947.27	2/	Natural iron oxide and iron hydroxide pigments (provided for in item 473.40, part 9B, schedule 4).....	2/	7% ad val.	7% ad val.	7.8% ad val.	8.5% ad val.	No change
947.28	2/	Statues, statuettes, and basreliefs of plaster of Paris, with or without reinforcement (provided for in item 512.41, part 1B, schedule 5).....	2/	3.5% ad val.	3.5% ad val.	3.9% ad val.	4.3% ad val.	No change
947.29	2/	Statues, statuettes, and hand-made flowers, all the foregoing of ceramic ware (provided for in item 536.11, part 2C, schedule 5).....	2/	2.4% ad val.	2.3% ad val.	2.5% ad val.	2.6% ad val.	No change
947.30	2/	Unwrought mercury, and waste and scrap of unwrought mercury (provided for in item 632.34, part 2E, schedule 6).....	2/	6.6¢ per lb.	6.2¢ per lb.	6.3¢ per lb.	6.4¢ per lb.	No change
947.31	2/	Pen knives, pocket knives, and other knives, all the foregoing which have folding or other than fixed blades or attachments and which are valued over 54 per dozen (provided for in item 649.83, part 3E, schedule 6).....	2/	3.5¢ each + 5.9% ad val.	2.8¢ each + 5.2% ad val.	2.7¢ each + 5% ad val.	2.6¢ each + 4.6% ad val.	No change
947.32	2/	Hammers and sledges, with or without their handles, with heads over 3.25 pounds each (provided for in item 651.23, part 3E, schedules 6).....	2/	1.6% ad val.	1.5% ad val.	1.7% ad val.	1.8% ad val.	No change

1/ Effective periods for reduced duties terminates at the close of December 31, 1987.
2/ See Appendix statistical headnote 1.

11

APPENDIX B

HISTORY OF THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED

Staged Rates

Modifications of column 1 rates of duty by Pres. Proc. 4707 (Tokyo Round), December 11, 1979, 44 F.R. 72340, as amended and Pres. Proc. 4768 (Customs Valuation Code), June 28, 1980, 45 F.R. 45135, as amended (see Preface):

TSUS item	Prior rate	Rates of duty 1/, effective with respect to articles entered, or withdrawn from warehouse, for consumption on and after --							
		January 1, 1980 except as noted	January 1, 1981	January 1, 1982	January 1, 1983	January 1, 1984	January 1, 1985	January 1, 1986	January 1, 1987
649.83	8.7c each + 13.5% ad val.	8c each + 12.5%	7c each + 11.5%	6.5c each + 10.5%	5.5c each + 9.5%	5c each + 8.4%	4c each + 7.4%	3.5c each + 6.4%	3c each + 5.4%
649.85	2.75c each + 13.5% ad val.	2.5c each + 12.5%	2.3c each + 11.5%	2c each + 10.5%	1.8c each + 9.5%	1.6c each + 8.4%	1.4c each + 7.4%	1.2c each + 6.4%	1c each + 5.4%
649.87	8.7c each + 13.5% ad val.	8c each + 12.5%	7c each + 11.5%	6.5c each + 10.4%	5.5c each + 9.5%	5c each + 8.4%	4c each + 7.4%	3.5c each + 6.4%	3c each + 5.4%
649.89	2.75c each + 13.5% ad val.	2.5c each + 12.5%	2.3c each + 11.5%	2c each + 10.4%	1.8c each + 9.5%	1.6c each + 8.4%	1.4c each + 7.4%	1.2c each + 6.4%	1c each + 5.4%
649.91	18.5% ad val.	17.2%	15.9%	14.6%	13.3%	11.9%	10.6%	9.3%	8%
650.01	0.46c each + 5% ad val.	0.43c each + 4.7%	0.4c each + 4.5%	0.36c each + 4.2%	0.33c each + 3.9%	0.3c each + 3.6%	0.28c each + 3.4%	0.23c each + 3.1%	0.2c each + 2.8%
650.03	2c each + 8.5% ad val.	1.8c each + 8.1%	1.7c each + 7.6%	1.6c each + 7.2%	1.5c each + 6.7%	1.3c each + 6.3%	1.2c each + 5.8%	1.1c each + 5.4%	1c each + 4.9%
650.05	4c each + 8.5% ad val.	3.5c each + 8.1%	3c each + 7.6%	2.5c each + 7.2%	2c each + 7%	1.5c each + 6.6%	1c each + 6.3%	0.5c each + 5.9%	5.5%
650.07	1c each + 7.5% ad val.	0.9c each + 7.2%	0.9c each + 6.8%	0.8c each + 6.3%	0.8c each + 6.1%	0.7c each + 5.8%	0.7c each + 5.4%	0.6c each + 5.1%	0.6c each + 4.7%
650.13	2c each + 6% ad val.	1.8c each + 5.8%	1.7c each + 5.5%	1.6c each + 5.3%	1.5c each + 5%	1.3c each + 4.8%	1.2c each + 4.5%	1.1c each + 4.3%	1c each + 4%
650.15	2c each + 12.5% ad val.	1.8c each + 11.7%	1.7c each + 10.8%	1.6c each + 10%	1.5c each + 9.1%	1.3c each + 8.3%	1.2c each + 7.4%	1.1c each + 6.6%	1c each + 5.7%
650.17	2c each + 8.5% ad val.	1.8c each + 8%	1.7c each + 7.5%	1.6c each + 7%	1.5c each + 6.6%	1.3c each + 6.1%	1.2c each + 5.6%	1.1c each + 5.1%	1c each + 4.6%
650.19	1c each + 6% ad val.	0.9c each + 5.8%	0.8c each + 5.6%	0.8c each + 5.4%	0.5c each + 5.2%	0.4c each + 5%	0.3c each + 4.8%	0.1c each + 4.6%	4.4%
650.21	0.5c each + 8.5% ad val.	0.5c each + 8.2%	0.5c each + 7.9%	0.4c each + 7.6%	0.4c each + 7.3%	0.4c each + 7%	0.4c each + 6.7%	0.4c each + 6.4%	0.4c each + 6.1%
650.31	0.4c each + 5% ad val.	0.38c each + 4.8%	0.37c each + 4.6%	0.36c each + 4.3%	0.35c each + 4.1%	0.34c each + 3.9%	0.32c each + 3.7%	0.31c each + 3.4%	0.3c each + 3.2%
650.35	4c each + 8.5% ad val.	3.5c each + 8.1%	3c each + 7.7%	2.5c each + 7.3%	2c each + 7%	1.5c each + 6.6%	1c each + 6.2%	0.5c each + 5.8%	5.4%
650.37	0.5c each + 6% ad val.	0.4c each + 5.8%	0.4c each + 5.5%	0.4c each + 5.3%	0.4c each + 5%	0.3c each + 4.8%	0.3c each + 4.5%	0.3c each + 4.3%	0.3c each + 4%
650.43	2c each + 6% ad val.	1.8c each + 5.8%	1.8c each + 5.5%	1.8c each + 5.3%	1.5c each + 5%	1.3c each + 4.8%	1.3c each + 4.5%	1.3c each + 4.3%	1c each + 4%
650.45	1c each + 6% ad val.	0.9c each + 5.7%	0.8c each + 5.3%	0.8c each + 5%	0.7c each + 4.6%	0.6c each + 4.3%	0.6c each + 3.9%	0.5c each + 3.6%	0.5 each + 3.2%
650.47	1c each + 6% ad val.	0.8c each + 6.2%	0.6c each + 3.2%	0.5c each + 3.2%	0.5c each + 3.2%	0.5c each + 3.2%	0.5c each + 3.2%	0.5c each + 3.2%	0.5c each + 3.2%
650.49	0.5c each + 8.5% ad val.	0.4c each + 8%	0.4c each + 7.5%	0.4c each + 7%	0.3c each + 6.5%	0.3c each + 6%	0.3c each + 5.5%	0.3c each + 5%	0.3c each + 4.5%
650.51	12.5% ad val.	11.9%	11%	10.3%	9.6%	8.8%	8.1%	7.3%	6.6%
650.53	10.5% ad val.	9.9%	9.4%	8.8%	8.3%	7.7%	7.1%	6.6%	6%
650.56	17% ad val.	15.8%	14.6%	13.4%	12.3%	11.1%	9.9%	8.7%	7.5%
650.57	11% ad val.	10.2%	9.4%	8.5%	7.7%	6.9%	6.1%	5.2%	4.4%
650.61	1c each + 6% ad val.	0.9c each + 5.8%	0.9c each + 5.5%	0.8c each + 5.3%	0.8c each + 5.1%	0.8c each + 4.8%	0.7c each + 4.6%	0.7c each + 4.3%	0.7c each + 4.1%
650.63	2c each + 8.5% ad val.	1.8c each + 8.1%	1.7c each + 7.7%	1.6c each + 7.2%	1.5c each + 6.8%	1.3c each + 6.4%	1.3c each + 62	1.1c each + 5.5%	1c each + 5.1%
650.65	2c each + 6% ad val.	1.8c each + 5.8%	1.7c each + 5.5%	1.6c each + 5.3%	1.5c each + 5%	1.3c each + 4.8%	1.2c each + 4.5%	1.1c each + 4.3%	1c each + 4%
650.71	1c each + 2.5% ad val.	0.9c each + 2.3%	0.8c each + 2.1%	0.7c each + 1.9%	0.7c each + 1.8%	0.6c each + 1.6%	0.5c each + 1.4%	0.4c each + 1.2%	0.4% each + 1%
650.73	2c each + 2.5% ad val.	1.8c each + 2.3%	1.7c each + 2.1%	1.6c each + 1.9%	1.5c each + 1.8%	1.3c each + 1.6%	1.2c each + 1.4%	1.1c each + 1.2%	1c each + 1%

1/ The symbol "%" indicates percent ad valorem. The symbol "c" indicates per stated unit of quantity.

APPENDIX C

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

82.10

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
8211 (con.)		Knives with cutting blades, serrated or not (including pruning knives), other than knives of heading 8208, and blades and other base metal parts thereof (con.):				
8211.93.00		Other (con.):				
		Knives having other than fixed blades, and parts thereof (except blades).....	.....	3¢ each + 5.4%		35¢ each + 55%
	30	Pen knives, pocket knives, and other knives which have folding blades....	No.			
	60	Other (including parts).....	No.			
82 1.94		Blades:				
8211.94.10	00	For knives having fixed blades.....	No.....	0.2¢ each + 2.6%		8¢ each + 45%
8211.94.50	00	Other.....	No.....	1¢ each + 5.4%		11¢ each + 55%
8212		Razors, and razor blades (including blade blank in strips), and base metal parts thereof:				
8212.10.00	00	Razors.....	No.....	0.4¢ each + 1%		10¢ each + 30%
8212.20.00	00	Safety razor blades, including razor blade blanks in strips.....	No.....	0.06¢ each + 1.8%		1¢ each + 30%
8212.90.00	00	Other parts.....	X.....	3.4%		27.5%
8213.00		Scissors, tailors' shears and similar shears, and blades and other base metal parts thereof:				
8213.00.30	00	Valued not over $1.75/dozen.....	No.....	2¢ each + 5.1%		15¢ each + 45%
		Valued over $1.75/dozen:				
8213.00.60	00	Pinking shears, valued over $30/dozen....	No.....	10¢ each + 10%		20¢ each + 45%
8213.00.90	00	Other (including parts).....	No.....	10¢ each + 10%		20¢ each + 45%
8214		Other articles of cutlery (for example hair-clippers, butchers' or kitchen cleavers, chopping or mincing knives, paper knives); manicure or pedicure sets and instruments (including nail files); base metal parts thereof:				
8214.10.00	00	Paper knives, letter openers, erasing knives, pencil sharpeners (nonmechanical) and blades and other parts thereof.....	No.....	0.4¢ each + 6.1%		8¢ each + 45%
8214.20		Manicure or pedicure sets and instruments (including nail files), and parts thereof:				
8214.20.30	00	Cuticle or corn knives, cuticle pushers, nail files, nailcleaners, nail nippers and clippers, all the foregoing used for manicure or pedicure purposes, and parts thereof.....	X.....	8%		60%
		Manicure and pedicure sets, and combinations thereof, in leather cases or other containers of types ordinarily sold therewith in retail sales:				
8214.20.60	00	In leather containers.....	X.....	4%		30%
8214.20.90	00	Other.....	X.....	8.1%		45%
8214.90		Other:				
		Cleavers and the like not elsewhere specified or included:				
8214.90.30	00	Cleavers with their handles.....	No.....	1¢ each + 4.9%		8¢ each + 45%
8214.90.60	00	Other.....	No.....	0.4¢ each + 6.1%		8¢ each + 45%
8214.90.90	00	Other (including parts).....	No.....	2¢ each + 4.6%		20¢ each + 45%

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 2056, a bill "Relating to the duty on certain knives (commonly known as snap blade tools) having movable blades."

The Department of Commerce opposes enactment of H.R. 2056.

H.R. 2056 would create a new Tariff Schedules of the United States (TSUS) item 649.69 for knives using snap-off blades and parts thereof, and permanently reduce the column 1 (MFN) duty on these knives, blades, and parts to 7.5 percent ad valorem by January 1, 1987. The bill also would establish a least developed developing country (LDDC) rate of 5.3 percent ad valorem which would be further reduced in specified stages to 3.5 percent ad valorem by January 1, 1987. The column 2 (statutory) rate would be set at 40 percent ad valorem. The bill also provides for continued eligibility under the U.S. Generalized System of Preferences with no countries declared ineligible.

Assembled snap blade knives enter the United States under TSUS item 649.83, with a MFN duty of 4 centes each plus 7.4 percent ad valorem. This MFN duty will be reduced in stages to 3 cents each plus 5.4 percent ad valorem, effective January 1, 1987, as a result of concessions made during the Tokyo Round of trade negotiations. However, as part of a bilateral agreement with Japan, the MFN tariff on this item has temporarily been reduced to 2.8 cents each plus 5.2 percent ad valorem. This temportary duty will be staged down until, on January 1, 1987, it reaches 2.6 cents each plus 4.6 percent ad valorem. The current statutory rate is 35 cents each plus 55 percent ad valorem.

Disassembled knives, blades, and parts enter under TSUS item 649.85 with a MFN duty of 1.4 cents each plus 7.4 percent ad valorem. This MFN duty will be reduced in stages to 1 cent each plus 5.4 percent ad valorem by January 1, 1987, as a result of concessions made during the Tokyo Round of trade negotiations.

Both assembled and disassembled knives and parts currently are eligible for duty-free treatment under the U.S. Generalized System of Preferences.

We oppose unilateral tariff reductions which may adversely affect U.S. producers without gaining added opportunities for the United States. There is one domestic firm which manufactures, and two which assemble, snap blade knives using foreign-made components. There is a very active blade manufacturing industry in the United States that would be affected by this change in duties.

The main foreign supplier of snap blade knives, blades, and parts is Japan. A unilateral tariff reduction on imports from Japan would be counterproductive during this period of high bilateral trade deficits with Japan. Such permanent tariff reductions should be accomplished through international trade negotiations in which the President has the opportunity to obtain benefits for U.S. exporters.

TSUS items 649.83 and 649.85 are "basket-type" categories which include products other than snap blade knives, parts and blades. Accurate trade data are not available on the items in question. Taking the two categories as a whole and applying H.R. 2056 against the current tariff schedule the total potential revenue loss from 1984–1987 would be $2.5 million. The duty reductions for which H.R. 2056 provides are retroactive to 1984 which would enable importers to file for duty refunds on materials in stock.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES.
Washington, DC, June 28, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Longworth House Office Building, Washington, DC, 20515

DEAR MR. CHAIRMAN: I am writing to urge your subcommittee to favorably report my bill, H.R. 2056, which would effectively reduce the tariff on "snap blade knives."

Under current law, as interpreted by the Customs Service, this item is placed in a category that I believe is inappropriate and results in an excessively high tariff. Furthermore, the consequent high product price serves no economic or public policy purpose. The single domestic producer of snap blade knives assembles the item from parts imported from Canada and creates a knife of substantially lower price and quality than the knives covered by the legislation. Thus, there is no domestic industry being protected by this tariff. Lastly, given the fact that the article in question

is used primarily by artists, craftsmen and tradesmen, it should not be treated as high tariff knives, but rather as hand tools, which incur a lower rate. Since the Customs Service has classified the item as a knife, I am submitting this legislation to your subcommittee for reclassification. I would appreciate your favorable consideration.

If your or your staff has any questions on this measure, please call me or Bill Black at 5-5931. Thank you.

BARNEY FRANK,
Member of Congress.

H.R. 2075

To make permanent the free rate of Customs duty on fresh cantaloupes imported at certain times, and for other purposes

See statements of American Farm Bureau Federation, Paul A. Drazek; and California Farm Bureau Federation, Henry J. Voss, under H.R. 110.

U.S. International Trade Commission

Section-by-section analysis

Section 1 of the proposed legislation would make permanent the temporary suspension of the column 1 rate of duty[1] on fresh cantaloupes entered during January 1 through May 15, inclusive, as was provided in item 903.65 in the Appendix to the Tariff Schedules of the United States (TSUS) through May 15, 1985. The rate otherwise assessed during that period was 35 percent ad valorem. Column 1 rates would apply during the remainder of each year; the legislation would not affect the column 2 duty rate[2] of 35 percent ad valorem. To accomplish this elimination of duties, current item 148.12 (which covers cantaloupes entered from December 1 in one year through the following March 31, inclusive) would be amended as restated in section 1. Section 2 would make these changes effective on January 1, 1986.

Background and sponsor's justification

Description and uses.—Melons (including cantaloupes) are the fruit of a trailing vine, field grown as an annual crop in temperate climates; they are nearly all round or oval in shape with the various types differing in overall size, skin color, flesh color and thickness, flavor, and seed-cavity size. Cantaloupes, the most important melon type marketed in the United States, include a number of subtypes that differ in size and appearance; cantaloupes for commercial sale are usually 5 to 6 inches in diameter, have salmon-orange flesh color, and have a skin overlain with a heavy, sandy-tan colored surface netting.

Cantaloupes are generally used fresh as an appetizer, snack, or dessert, or may be cut into pieces for use in fresh fruit salads. Fresh cantaloupes are nonstorable and generally maintain their quality for only several weeks after harvest. This characteristic makes the marketing of cantaloupes seasonal.

Sponsor's justification

No statement regarding the proposed legislation appeared in the Congressional Record.

Comparison with present law

Tariff treatment under the TSUS.—Imported cantaloupes are classified under TSUS item 148.10 if entered during the period from August 1 through September 15 in any year, under item 148.12 if entered from December 1 through March 31, and under item 148.17 if entered at any other time. The column 1 rate of duty under item 148.10 is 20 percent ad valorem. This duty rate reflects a concession granted by the United States under the General Agreement on Tariffs and Trade (GATT), effective June 6, 1951. The column 2 duty rate is 35 percent ad valorem.

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

Imports classified in tariff items 148.12 and 148.17 are dutable at the rate of 35 percent ad valorem under both columns 1 and 2 (table 1). Imported cantaloupes classified in these two tariff items are eligible for duty-free entry under the Generalized System of Preferences (GSP) [3] if imported from designated beneficiary countries; however, imports from Mexico are not eligible for GSP treatment due to the so-called "competitive need" criteria. Imports under all three tariff items may be entered free of duty if from beneficiary countries under the Caribbean Basin Economic Recovery Act (CBERA).[4] However, no preferential least developed developing countries (LDDC) duty rates [5] have been granted for any of these provisions.

Tariff treatment under the Harmonized System.[6]—The tariff treatment for the subject cantaloupes under the proposed Harmonized System (HS) is shown below:[7]

HS Commodity code number	Description	Rates of duty	
		Col. 1 [1]	Col. 2
	Edible fruit:		
0807.10.20	Cantaloupes, if entered at any other time [2]	35%	35%

[1] Represents the proposed "General" col. 1 rate.
[2] Other than from August 1 to September 15.

Structure of the domestic industry

Canataloupes are produced commercially in at least 25 States, with more than 90 percent of the crop harvested in California, Texas, and Arizona. Cantaloupes require a long growing season and are susceptible to a number of diseases that limit the areas where they can be grown. According to the Census of Agriculture, cantaloupes were produced on 114,000 acres on 8,200 farms in 1982, compared with 110,000 acres on 7,500 farms in 1978. In 1982, 1,200 farms in California, Texas, and Arizona, together, accounted for 90,000 acres of production. Most of the producers raised other crops in addition to cantaloupes. However, for some of the producers, particularly in California and Arizona, cantaloupe production is the largest part of their total operations.

Domestic production

Total U.S. production of cantaloupes increased regularly from an estimated 1.2 billion pounds, valued at $167 million, in 1980 to 1.5 billion pounds, valued at $210 million, in 1984 (table 2). Production during the part of the year covered by the proposed legislation (Jan. 1-May 15) is believed to account for about 5 percent of annual U.S. production; it also increased during 1980–84 (table 3). The cantaloupe harvest is highly seasonal; while the shipping season normally begins in late April or early May for cantaloupes produced in Arizona, California, and Texas, the bulk of domestic shipments are made from June through August.

---

[3] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[4] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic developing and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designed Basin countries.

[5] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[6] The Harmonized System is intended to serve as the single modern product nomeclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

[7] Source: Trade Policy Staff Committee, *Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System* (September 1984).

U.S. imports

During 1980–84, total U.S. imports of cantaloupes rose irregularly from 170 million pounds, valued at $20 million, in 1980 to 247 million pounds, valued at $31 million, in 1984 (table 4). Data are not separately reported for the period January 1–May 15. However, imports during January 1–May 30 in the years 1980–84 were as follows:

January–May	Quantity (million pounds)	Value (million dollars)
1980	162.3	19.5
1981	130.7	18.1
1982	145.8	20.8
1983	130.7	22.5
1984	228.7	29.4

On a quantity basis, 88 percent of the cantaloupes imported into the United States during 1980–84 entered during the period January–May. Mexico is by far the leading source of imported cantaloupes, supplying 89 percent of the total annual imports in 1984. The Dominican Republic, Honduras, and Costa Rica are also sources of supply. In 1984, 11 percent (by volume) of cantaloupe imports entered free of duty from GSP-eligible suppliers; the Dominican Republic, supplying 9 percent of total imports, was the largest such supplier. Mexico was ineligible for GSP benefits due to its predominant share of total imports. Imports from Belize and Jamaica, the only CBERA countries supplying fresh cantaloupes in 1984, were insignificant. There were no column 2 imports of fresh cantaloupe during 1984.

In recent years, over 100 firms imported fresh cantaloupes, with 25 of them accounting for the bulk of such imports in 1984. These large volume firms are located in the Southwestern United States. Most have been importing fresh produce for many years, and fresh cantaloupes are only one of many different articles they import. The names and addresses of the principal importing firms are not available. Customs brokers serving as importers of record are responsible for the entry of many cantaloupes. Such firms do not take possession of the imported goods; they are responsible for executing the necessary transactions involved in moving the goods through the U.S. Customs Service entry port for someone else.

U.S. exports

During 1980–84, U.S. exports of cantaloupes averaged 52.1 million pounds ($7.0 million) annually; exports amounted to 46.9 million pounds, valued at $6.6 million, in 1984. Canada is the principal market for U.S. exports of cantaloupes, accounting for 98 percent of total U.S. cantaloupe exports in 1980–84 (table 5). Exports of cantaloupes during the months of January through May 1980–84 rose irregularly from 3.1 million pounds, valued at $590,000, in 1980 to 10.4 million pounds, valued at $1.7 million, in 1984. Exports during the first 5 months of 1980–84 were equivalent to about 10 percent of total exports (on a quantity basis) in each of those years.

Apparent consumption

During 1980–84, apparent U.S. consumption of fresh cantaloupes rose steadily and averaged about 1.5 billion pounds annually; in 1984, consumption amounted to 1.7 billion pounds (table 2). The ratio of imports to consumption averaged 12 percent throughout the period. About 70 percent of consumption during January-May, roughly the period covered by the proposed legislation, was supplied by imports; consumption in these months averaged about 223 million pounds annually during 1980–84 (table 3).

Effect on revenue

The enactment of the legislation would likely have a significant effect on annual customs revenues on fresh cantaloupe imports, assuming 1984 import levels and the applicable column 1 duty rate of 35 percent ad valorem. If 11 percent of the imports during the five-month period are excluded (the portion entering from GSP-eligible countries), the duties which would have been collected in 1984 would have totaled about $9 million. However, the elimination of duties during the period of lowest U.S. production would result in a continued savings to the U.S. Customs Service in determining the dutiable value of imported cantaloupes. In general, cantaloupes do not have an invoice value when entering the United States, and Customs must use other more time-consuming means to determine dutiable value.

Technical comments

Section 1 should be redrafted as follows:

(a) Item 148.12, subpart B of part 9 of schedule 1 to the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) is stricken and the following new item inserted in lieu thereof (with the article description at the third level of indentation):

"148.15 If entered during the period from January 1 to May 15, inclusive, in any year. Free ..... 35% ad val."

(b) Item 148.13 is redesignated as 148.16.

The column headings (which in the legislation as drafted are within the quoted matter being inserted) are of no legal significance and should not be enacted; the GSP designation, statistical suffix, and unit of quantity are administratively added to the TSUS. The existing superior headings need not be reenacted. New item numbers are suggested to reflect the change in product coverage. Since the coverage of TSUS item 148.17 is also being altered, it should normally be redesignated; however, no item numbers are available, and the redesignation of other items would result in the loss of GSP benefits.

In section 2, commas should be inserted after "entered" and "consumption".

TABLE 1.—FRESH CANTALOUPES: U.S. RATES OF DUTY, BY TSUS ITEMS

[Percent ad valorem]

TSUS item No.[1]	Description	Pre-MTN col. 1 rate of duty[2]	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
	Cantaloupes:										
148.12A*	If entered during the period from December 1, in any year, to the following March 31, inclusive.	[3] 35%	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	35%
148.17A*	If entered at any other time.....	[3] 35%	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	35%

[1] The designation "A*" indicates that the item is currently designated as an eligible article for duty-free treatment under the GSP and that certain beneficiary developing countries, specified in general headnote 3(c) of the "Tariff Schedules of the United States Annotated," are eligible.

[2] Rate effective prior to Jan. 1, 1980.

[3] Duty temporarily suspended; effective period for suspended duties terminates at the close of May 15, 1985. See Appendix to Tariff Schedules of the United States.

[4] There was no change in the col. 1 rate resulting from the Multilateral Trade Negotiations.

TABLE 2.—CANTALOUPES: U.S. PRODUCTION, EXPORTS, IMPORTS, AND APPARENT CONSUMPTION, 1980–84

[Quantity in thousands of pounds; value in thousands of dollars; unit value in cents per pound]

Year	Production[1]	Exports	Imports	Apparent consumption	Ratio (percent) of imports to consumption
			Quantity		
1980	1,224,200	47,388	169,917	1,346,729	13
1981	1,334,600	45,778	138,041	1,426,863	10
1982	1,417,500	55,841	182,481	1,544,140	12
1983	1,469,300	64,456	166,097	1,570,941	11
1984	1,503,400	46,864	246,668	1,703,204	14
			Value		
1980	166,800	6,494	20,477	(2)	(2)
1981	188,070	6,245	19,580	(2)	(2)
1982	198,450	7,196	26,441	(2)	(2)
1983	205,702	8,403	26,537	(2)	(2)
1984	210,476	6,649	31,068	(2)	(2)

TABLE 2.—CANTALOUPES: U.S. PRODUCTION, EXPORTS, IMPORTS, AND APPARENT CONSUMPTION, 1980–84—Continued

[Quantity in thousands of pounds; value in thousands of dollars; unit value in cents per pound]

Year	Production [1]	Exports	Imports	Apparent consumption	Ratio (percent) of imports to consumption
			Unit value		
1980	14	14	12		
1981	14	14	14		
1982	14	13	14		
1983	14	13	16		
1984	14	14	13		

[1] Data for 1982–84 estimated by the Commission staff.
[2] Not meaningful.

Source: Production, compiled from official statistics of the U.S. Department of Agriculture, except as noted; exports and imports, compiled from official statistics of the U.S. Department of Commerce.

TABLE 3.—CANTALOUPES: U.S. PRODUCTION, EXPORTS, IMPORTS, AND APPARENT CONSUMPTION, JANUARY 1–MAY 15, 1980–84

[Quantity in thousands of pounds; value in thousands of dollars; unit value in cents per pound]

Year	Production [1]	Exports [2]	Imports [2]	Apparent consumption	Ratio (percent) of imports to consumption
			Quantity		
1980	61,210	3,116	162,312	220,406	74
1981	66,730	2,648	125,692	189,774	66
1982	70,875	2,739	145,807	213,943	68
1983	73,465	5,507	130,690	198,648	66
1984	75,170	10,407	228,657	293,420	78
			Value		
1980	8,340	591	19,504	([3])	([3])
1981	9,404	444	18,122	([3])	([3])
1982	9,923	521	20,827	([3])	([3])
1983	10,285	869	22,543	([3])	([3])
1984	10,524	1,687	29,355	([3])	([3])
			Unit value		
1980	14	19	12		
1981	14	17	14		
1982	14	19	14		
1983	14	16	17		
1984	14	16	13		

[1] Estimated by the Commission staff, assuming 5 percent of total domestic production is shipped during January 1–May 15.
[2] January–May.
[3] Not meaningful.

Source: Production, estimated by the staff of the U.S. International Trade Commission; exports and imports, compiled from official statistics of the U.S. Department of Commerce.

TABLE 4.—FRESH CANTALOUPES: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Mexico	166,128	135,707	177,677	153,600	219,812
Dominican Republic	19	30	1,874	7,962	22,201
Honduras	3,093	1,567	2,259	4,062	3,503
Guatemala	248	208	54	0	566
Venezuela	0	0	0	24	69
Chile	118	0	1	131	129
Panama	0	0	0	0	112
Jamaica	0	0	33	40	81
All other	311	529	584	278	195
Total	169,917	138,041	182,481	166,097	246,668
	Value (1,000 dollars)				
Mexico	19,987	19,190	25,778	24,624	28,009
Dominican Republic	3	2	166	857	2,077
Honduras	408	232	384	966	749
Guatemala	18	15	3	.....	57
Venezuela	.....	.....	.....	15	51
Chile	11	.....	1	19	28
Panama	.....	.....	.....	.....	26
Jamaica	.....	.....	5	12	25
All other	50	141	104	44	46
Total	20,477	19,580	26,441	26,537	31,068
	Unit value (per pounds)				
Mexico	$0.12	$0.14	$0.15	$0.16	$0.13
Dominican Republic	.17	.05	.09	.11	.09
Honduras	.13	.15	.17	.24	.21
Guatemala	.07	.07	.05	.....	.10
Venezuela	.....	.....	.....	.64	.73
Chile	.09	.....	.80	.14	.21
Panama	.....	.....	.80	.14	.24
Jamaica	.....	.....	.15	.30	.31
All other	.16	.27	.18	.16	.23
Average	.12	.14	.14	.16	.13

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 5.—FRESH CANTALOUPES: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Canada	45,585	44,829	54,227	63,559	46,386
Bermuda	99	18	64	110	96
Japan	185	102	40	303	84
Panama	3	39	0	0	28
Netherlands	57	71	484	0	30
Korea	9	12	6	36	27
Trinidad	155	0	0	0	17
Bahamas	161	125	59	3	14
All other	1,134	582	961	445	182
Total	47,388	45,778	55,841	64,456	46,864

TABLE 5.—FRESH CANTALOUPES: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84—Continued

Market	1980	1981	1982	1983	1984
	Value (1,000 dollars)				
Canada	6,009	5,934	6,875	8,197	6,517
Bermuda	23	5	13	25	22
Japan	46	25	7	46	19
Panama	1	23			13
Netherlands	31	18	57		13
Korea	4	8	2	13	7
Trinidad	44				7
Bahamas	23	34	29	2	7
All other	313	198	213	120	44
Total	6,494	6,245	7,196	8,403	6,649
	Unit value (per pound)				
Canada	$0.13	$0.13	$0.13	$0.13	$0.14
Bermuda	.23	.29	.20	.23	.23
Japan	.25	.25	.17	.15	.23
Panama	.35	.58			.46
Netherlands	.55	.26	.12		.43
Korea	.49	.71	.37	.36	.24
Trinidad	.29				.39
Bahamas	.14	.27	.50	.85	.46
All other	.28	.34	.22	.27	.25
Average	.14	.14	.13	.13	.14

Source: Compiled from official statistics of the U.S. Department of Commerce.

STATEMENT OF LEONARD LEHMAN ON BEHALF OF THE TEXAS CITRUS & VEGETABLE IMPORT ASSOCIATION

My name is Leonard Lehman. I am a member of the firm of Barnes, Richardson & Colburn, 1819 H Street, N.W., Washington, D.C. I represent the Texas Citrus and Vegetable Import Association, on whose behalf I am submitting the following statement in support of enactment of H.R. 2075, a bill to make permanent the duty-free status of fresh cantaloupes imported during the period from January 1 through May 15, inclusive, in each year.

I. THE PURPOSE OF THE BILL

This bill was introduced to rectify the heavy burden imposed on such imports by the 35 percent ad valorem rate normally applicable pursuant to the Smoot-Hawley Tariff Act of 1930.

There is no domestic production during the January 1-May 15 period. Accordingly, the existing tariff provides no protection to a domestic industry or to farmers. The sole effect of the statutory, 35 percent, ad valorem rate is to penalize consumers, the American housewife, and those firms and workers engaged in the handling, transportation, and distribution of this produce at a time when no domestic supplies are available.

II. BACKGROUND

A. The U.S. growing season

Cantaloupes, a perishable product, are produced extensively throughout the United States during the hot summer months. None are grown in the winter months specified in the bill. Nearly all summer output in the U.S. is for local consumption in the areas in which the crop is grown. Although there is limited production in the Southwestern United States (mainly in Texas and Southern California) in the late fall, there is no domestic production during the U.S. winter season. All

available supplies during this period (January 1-May 15) are from imports and the great bulk of supplies during this period are from Mexico (See table 1).[1]

As the domestic product begins to appear on the market by mid-May, the imports virtually cease. Once American supplies are available, the imports are no longer able to compete because of disadvantages resulting from the longer freight hauls, the costs of refrigeration, other expenses of importing and distributing the product from foreign sources, and the overall efficiency of American growers. Accordingly, it is clear that the imports during the January 1-May 15 period covered by the bill cause no harm to any domestic producing interest.

B. The bill providing for the original suspension limited the imports to nongrowing seasons in the United States

Because of the foregoing conditions, Congressman de la Garza introduced legislation in 1982 for the temporary suspension of the 35 percent ad valorem rate on fresh cantaloupes during the season when there is no domestic production. The bill was enacted by the Congress and became effective January 1, 1983. It is scheduled to expire May 15, 1985.

The reason for the temporary measure in the original bill was to provide an opportuntiy to evaluate the effect of the measures on a trial basis and to determine the full impact of the legislation. Nothing has occurred to alter the orignial judgment that the suspension would not adversely affect any U.S. producing interests.

Imports from Mexico occur in very small amounts in November at which time production in the Southwestern United States, the only domestic source at that time of the year, rapidly disappears because of adverse weather that makes domestic production impossible. Because of this small, insignificant overlap in November and December, H.R. 2075 does not seek to have the suspension period begin before the beginning of the calendar year. After January 1, however, there are no shipments of U.S. origin. Moreover, the original bill providing for the temporary suspension called for end of the duty-free treatment in mid-May, when domestic climatic conditions enables U.S. growers to resume production and shipment. That same terminal date is envisaged in the new bill.

As the attached tables 2(a), (b) and (c) show, production and shipping patterns have continued without change under the suspension. From January 1 to May 15, there is virtually no domestic supply because weather conditions prohibit the production of this crop during that period. Imports still virtually cease when the early spring crop from U.S. sources first appears.

Accordingly, the permanent duty-free treatment of imported fresh cantaloupes during the period January 1-May 15 of each calendar year is fully justified. This would benefit consumers and all those whose livelihood is associated significantly with the importation, distribution and retail sale of these products. On the other hand, all these sectors of the U.S. economy clearly would be disadvantaged if the 35 percent duty were reimposed. The fact that American agriculture would not be injured by this measure is best indicated by the realization that most of the cantaloupe importers have as their major business the production of cantaloupes in the United States when this product is in season. When American cantaloupes are ready for the market the importations cease.

C. Most imports of fresh cantaloupes from other sources are dutyfree

After the temporary legislative suspension (beginning in 1983) of the duty on cantaloupe imports from Mexico during January 1-May 15, imports of fresh cantaloupes from the Caribbean Basin countries became eligible for duty-free treatment pursuant to the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2702). In addition, imports from several Latin American countries other than Mexico are entitled to duty-free treatment pursuant to the provisions of the Generalized System of Preferences (GSP). The following table indicates the status of the imports of fresh cantaloupes pursuant to these two legislative measures:

---

[1] Commercial market shipments in the United States from domestic production virtually cease the last week of December and are not resumed until mid-May when volume production again commences in Texas and California. Accordingly, all available supplies of fresh cantaloupes during the period January 1 through May 15 are supplied almost entirely by imports—mainly from Mexico.

Fresh cantaloupes: Duty-free treatment accorded specified countries pursuant to the generalized system of preferences (GSP) and the Caribbean Basin Economic Recovery Act (CBERA)

GSP	CBERA
Belize	Belize
Colombia	Costa Rica
Dominica	Dominican Republic
Ecuador	El Salvador
Guatemala	Guatemala
Haiti	Haiti
Honduras	Honduras
Jamaica	Jamaica
Panama	Panama
Guyana	

Countries eligible for duty treatment under the GSP can, of course, be removed from eligibility if their shipments exceed certain levels in terms of the absolute value of the trade, or a certain percentage of the total value of such imports. Most of the countries of the Caribbean Basin area, however, enjoy dual status, so that if they lose GSP eligibility, they can continue to ship cantaloupes to the U.S. duty-free under the CBERA program. The permanent suspension of the duty for the period January 1–May 15 does not interfere with either of these two programs.

III. CONCLUSION

A certain, and significant inequity would arise if the temporary suspension were lifted on the imports from Mexico. That country continues to be by far the leading source of cantaloupe imports—notwithstanding the duty-free status of the imports from the other countries under the aegis of the dual GSP/CBERA programs.

As indicated, this legislation would confine the duty-free status to the imports (mainly from Mexico) solely during the period (January–May 15) when there are no domestic products on the market. In contrast, the growing seasons in the other Caribbean area countries are longer so that there is more overlap between the importations from these countries and U.S. output than there is from the growing areas of Mexico that are involved. Thus, while the proposed legislation from the Mexican shipments proscribes any tariff relief when there is some domestic production, this is not true of the duty-free imports from other areas under the GSP or the CBERA programs. These countries can ship when there is U.S. production. If there is a competitive disadvantage to U.S. growers, it arises from GSP and CBERA, not from the existing temporary suspension or the proposed permanent legislation for the January 1–May 15 shipments of Mexico.

The proposed legislation would be of significant benefit to the border communities of the Southwest that derive significant income from the activities that surround the trade in question. It would benefit consumers throughout the country by the elimination of an egregiously high, 35 percent, rate of duty at a time when there is no domestic source. Moreover, it should be recognized that the original impetus of this trade was, and continues to be, in very significant part, the ingenuity of domestic growers who developed the Mexican operation as a source of supply for U.S. consumers during those months when no U.S. production is possible because of domestic climatic conditions.

The bill would not significantly erode the benefits that accrue to other countries under the GSP or CBERA programs. Those countries enjoy a longer growing season than Mexico and the period of their duty-free treatment is not limited (as in this bill) to periods of non-production in the U.S.; those countries can ship free of duty all year. Moreover, they enjoy a significant freight cost advantage over Mexico. Nearly all of their produce moves by vessel. All of the Mexican produce is shipped overland in Mexico and the United States at a significantly higher level of overall freight cost.

In summary, failure to enact this legislation would work a considerable hardship on those entrepreneurs, communities, shipping companies, wholesale and retail merchants, and others, who are engaged in, or who benefit economically from, the distribution of these products when there is no U.S. supply. It would be of significant benefit to consumer and those engaged in this trade. The bill is structured so that there will be no disadvantage to U.S. growers, and it should be enacted.

TABLE 1.—FRESH CANTALOUPES: TOTAL U.S. IMPORTS FOR CONSUMPTION, ALL SEASONS, CALENDAR YEAR BASIS, 1982–84

[148.10, 148.12, and 148.17 (1,000 pounds)]

	1982	1983	1984
Total, all countries	182,480.5	166,096.8	246,668.1
Mexico	177,676.8	153,599.9	219,811.8
All other	4,803.7	12,496.9	26,856.3
Other major suppliers:			
Dominican Republic	1,874.0	7,961.9	22,200.8
Honduras	2,258.6	4,062.5	3,503.4
Guatemala	53.7	0	565.8
Chile	.9	130.8	129.2
Panama	0	0	111.6
Jamaica	33.3	39.6	80.9
Venezuela	0	23.6	69.3
Costa Rica	129.8	185.9	64.1
Salvador	0	0	48.4
Belize	0	0	43.9
Haiti	0	0	35.0
Colombia	337.9	2.2	0
Ecuador	45.0	2.6	0
Cayman	19.9	0	0
Not listed	50.6	87.9	3.9

Source: Compiled from data of the Department of Commerce (Im 146).

TABLE 2(A).—CANTALOUPES

[Weekly cantaloupe movement—trucklots (45,000 lbs), 1981–82 season]

Week ending	Nogales	Other Mexico	Texas	California	Total
January:					
2		1			1
9		2			2
16		1			1
23		7			7
30		16			16
February:					
6	1	15			16
13	2	36			38
20	8	85			93
27	14	165			179
March:					
6	14	171			185
13	16	223			239
20	20	245			265
27	16	259			275
April:					
3	16	232			248
10	32	269			301
17	33	320			353
24	65	307			372
May:					
1	87	276			363
8	150	232			382
15	184	195	1		380
22	184	115	20	29	348
29	104	39	244	397	784
June:					
5	25		670	759	1,454

TABLE 2(A).—CANTALOUPES—Continued

[Weekly cantaloupe movement—trucklots (45,000 lbs), 1981–82 season]

Week ending	Nogales	Other Mexico	Texas	California	Total
12	2		777	684	1,463
19			496	826	1,322
Total	973	3,211	2,208	2,695	9,087

Note: Figures are final through March—preliminary for rest.

TABLE 2(B).—CANTALOUPES

[Weekly cantaloup movement—trucklots (45,000 lbs), 1982–83 season]

Week ending	Nogales	Other Mexico	Texas	California	Arizona	Total
November:						
6	2	6		209		217
13	13	5		181		199
20	23			114		137
27	14			94		108
December:						
4	6			38		44
11	1			24		25
18		4		28		32
25		5		8		13
January:						
1		8				8
8	3	6				9
15		7				7
22		11				11
29		14				14
February:						
5		23				23
12		29				29
19		31				31
26	3	31				34
March:						
5	4	21				25
12	5	36				41
19	3	31				34
26	4	42				46
April:						
2	6	39				45
9	19	85				104
16	44	112				156
23	62	119				181
30	114	232				346
May:						
7	262	273				535
14	434	302	2			738
21	354	197	105			656
28	267	54	561	49	2	933
June:						
4	52		789	563	20	1,424
11	8	2	936	1,044	113	2,103
18		8	862	1,041	324	2,235
25		13	608	837	263	1,721
Total	1,703	1,746	3,863	4,230	722	12,264

Note: Figures are final through March—preliminary for rest.

TABLE 2(C).—CANTALOUPES

[Weekly cantaloup movement—trucklots (45,000 lbs), 1983–84 season]

Week ending	Nogales	East Mexico	Arizona	California	Texas	Total
December:						
3	4		1	51		56
10	3		2	21		26
17	3			3		6
24	3					3
31	1					1
January:						
7		2				2
14		6				6
21	1	13				14
28	10	26				36
February:						
4	4	26				30
11	5	40				45
18	9	76				85
25	25	137				162
March:						
3	20	114				134
10	13	114				127
17	18	149				167
24	37	249				286
31	53	187				240
April:						
7	77	218				295
14	118	264				382
21	224	244				468
28	321	226				547
May:						
5	240	317				557
12	234	295		3	9	541
19	269	167		101	301	838
26	44	11	1	493	1,116	1,665
June:						
2	12		71	513	1,156	1,752
9	22		228	572	1,104	1,926
16	10		256	732	747	1,745
Total	1,780	2,881	559	2,489	4,433	12,142

Note: Figures are final through March—preliminary for rest.

UNITED FRESH FRUIT & VEGETABLE ASSOCIATION,
Alexandria, VA, June 25, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, Longworth Office Building, U.S. House of Representatives, Washington, DC.

DEAR MR. DOWLEY: The United Fresh Fruit and Vegetable Association, whose members handle over 80 percent of the fresh produce commodities commercially marketed, files these comments in support of H.R. 2705, introduced by Rep. E. "Kika" de la Garza. The bill seeks to make permanent the present temporary duty-free status of fresh cantaloupes imported during the period from January 1-May 15. Currently, a 35 percent ad valorem tariff duty rate is imposed on cantaloupes imported during that period.

United's 2,600 member companies represent every segment of the industry, including importers and domestic producers of cantaloupes. Consequently, the association is very sensitive to the impact that a reduction or elimination of tariff duty on produce commodities may have on the economic well-being of domestic producers.

Our analysis of the domestic production season and trends indicate that there is no commercial production of cantaloupe during the January 1-May 15 period. In

this case, since domestic producers do not need to be protected, the 35 percent duty should be eliminated.

The continuation of the duty serves only one purpose—to increase the cost of fresh cantaloupes to the nation's consumers. This tends to impede the goals of not only our industry, but those of the U.S. government in encouraging the increased consumption of healthy and nutritious fresh produce commodities.

In conclusion, enactment of the legislation will not only benefit consumers by lowering the price of cantaloupes, but will also benefit the numerous small businesses who distribute these products when there is no U.S. supply. We respectfully request that H.R. 2075 be approved by the Committee on Ways and Means.

Sincerely,

ROBERT COLIN KEENEY,
Vice President, Government Relations.

WASHINGTON, DC, *June 28, 1985.*

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth Office Building, Washington, DC.

DEAR MR. DOWLEY: We are writing on behalf of the West Mexico Vegetable Distributors Association of Nogales, Arizona, in support of H.R. 2075, legislation which would make permanent the free rate of Customs duty on fresh cantaloupes imported at certain times when there is no domestic production.

The legislation sponsored by Rep. Kika de la Garza, Chairman of the House Agriculture Committee, should be considered favorably by the Committee on Ways and Means for the following reasons:

Cantaloupe imports during the winter season are now entered under a temporary duty-free treatment. Because there is no significant domestic production of cantaloupes during those winter months, the imports do not compete with domestic production (see attached chart from The Packer). The proposed legislation would make permanent the duty-free treatment without any adverse effects on American farmers.

Consumers would benefit from lower prices for cantaloupes if they are entered duty-free. There is no point in burdening American consumers with a tariff wall when there are no cantaloupes other than imported ones available on the market.

Continuing the availability oif cantaloupes throughout the year in grocery stores will help to create and sustain a healthy market for cantaloupes. American farmers will benefit from a greater awareness and preference for cantaloupes among consumers if cantaloupes are available throughout the year. When cantaloupes are not available through the winter months, consumers "forget" and do not start purchasing cantaloupes (or any other vegetable or fruit) when the "season" returns. It was for this sake of "continuity" that the Chairman of the Agriculture Committee sought the temporary duty suspension of few years ago. Experience has shown during the past years that the temporary duty suspension has not affected the domestic producers. Consumers have benefited from the availability of low priced winter season cantaloupes.

We see no reason why the duty free treatment of cantaloupes in the winter season should be discontinued. We urge the Committee to favorably consider H.R. 2705.

West Mexico Vegetable Distrbutors Association is composed of some 70 American businesses in Nogales, Arizona that import from Mexico and distribute fresh vegetables during the winter season running from December through May. Vegetables imported by member companies include tomatoes, cucumbers, eggplants, green peppers, and a wide range of other vegetables in smaller quantities. In the winter season, approximately half of the fresh tomatoes in the American market are made available through member companies. The other half of the winter tomato supply comes from Florida.

Very truly yours,

MIKE M. MASAOKA,
T. ALBERT YAMADA,
Counsels, West Mexico Vegetable Distributors Association.

[An attachment has been retained in the committee files.]

H.R. 2158

To prohibit the importation into the United States of beef, bananas, and sugar from Nicaragua until the President finds that the policies of the Government of Nicaragua regarding opposition to the democratic resistance forces and a free democratic form of government are consistent with its obligations under the terms of the Nicaraguan revolution and the promises made to the Organization of American States

See statement of California Farm Bureau Federation, Henry J. Voss, under H.R. 110.

U.S. International Trade Commission

Section-by-section analysis

The proposed legislation would prohibit the importation from Nicaragua of beef (however provided for in part 2B, schedule 1 of the Tariff Schedules of the United States (TSUS)), bananas (provided for in TSUS items 146.40, 146.42, and 146.44), and sugar (however provided for in part 10A, schedule 1 of the TSUS). The prohibition on such Nicaraguan imports would continue until the President finds that the Government of Nicaragua's policies regarding opposition to the democratic resistance forces and a free democratic form of government are consistent with its obligations under the terms of the Nicaraguan revolution and the promises made to the Organization of American States. The import ban would be effective after the date of enactment of the act.

It should be noted that on May 1, 1985, the President issued Executive Order 12513 prohibiting trade and certain other transactions involving Nicaragua. The prohibitions set forth in the Order became effective May 7, 1985.

Background

Description and uses.—The proposed legislation would cover all beef, (however provided for in part 2B, schedule 1 of the TSUS) imported into the United States from Nicaragua. Thus, the entry of fresh, chilled, or frozen beef; beef sausages, whether or not in airtight containers; canned beef, including canned corned beef; cured or pickled beef; and other prepared or preserved beef would be banned. Virtually all Nicaraguan beef imported into the United States is reported to be intended for manufacturing of food products such as stews, soups, frozen dinners, and so forth. Such beef is derived from lean, grass-fed animals and is generally comparable to beef derived from U.S. cull cattle. However, imported Nicaraguan beef is somewhat different from the bulk of U.S. beef, which consists of table beef derived from grain-fed cattle.

Bananas (TSUS items 146.40–146.44) are a rapidly growing herbaceous perennial grown only in tropical climates and almost always used as fresh fruit. They are of two general types: those grown from the common banana plant, which attains a height of 18 feet, and the dwarf, or Cavendish, plant growing 9 feet tall. A number of common banana varieties are known, varying considerably as to fruit size, shape, color, and flavor. The most important banana varieties imported into the United States from Central America are the Giant Cavendish, the Valery, and the Grand Nain. The most significant supplying countries are Costa Rica, Honduras, Ecuador, Colombia, and Panama. Dried bananas, including banana flakes, are used primarily as a health food, especially for infants. "Otherwise prepared or preserved" bananas consist primarily of canned sliced bananas, for use in pies and desserts, but also include banana chips used for snacks, sauce (mafran), and chocolate coated bananas. Imports from Nicaragua are entirely composed of fresh bananas and amount to less than 1 percent of total U.S. imports.

The subject sugar is new and refined sugar (TSUS item 155.20), liquid or invert sugar (item 155.30), and flavored and blended sirups and flavored sugar (item 155.75). In its refined (pure) form , sugar is a dry, white organic chemical known as sucrose. It is derived from the milling and refining of sugar cane or the processing of sugar beets.

Sugar beets are annual plants, usually grown in temperate climates in rotation with other crops (to avoid disease and pest problems from growing two beet crops successively in the same field). Sugar cane is a perennial subtropical plant. Because both sugar beets and sugar cane are perishable and bulky in their natural state, they are processed soon after harvest near the location where they are grown, and are not usually shipped in international commerce. Sugar beets are converted directly to refined sugar in a single operation. By contrast, sugar cane is first processed into an intermediate product, raw sugar, by a process known as milling; the sugar is converted to pure or refined sugar by a process known as refining. Milling is done near the sugar cane's location of growth; refining is done at or near the sugar's point of consumption. Raw sugar, consisting of large sucrose crystals coated with molasses, is the principal sugar shipped in world trade.

Refined sugar is usually marketed in granulated or powered form; however, for some uses, primarily for beverages and baking, it is dissolved in water and sold as liquid sugar or invert sugar syrup. Sugar is used primarily as a caloric sweetening agent in food. In the United States, about one-third of the sugar consumed goes to households and institutional users and two-thirds to industrial users, where it is used to sweeten commercially sold products.

Virtually the only sugar that has been imported from Nicaragua is raw sugar.

Purpose [1]

The legislation would prohibit imports of three selected agricultural products into the United States from Nicaragua. These commodities were selected because they are the United States' principal agricultural imports from Nicaragua. The proposed legislation is designed to apply pressure on the Government of Nicaragua to end its opposition to the democratic resistance forces and to adopt a free democratic form of government, consistent with its commitments in the Nicaraguan revolution and to the Organization of American States.

Prior investigations

The only Commission investigations of any of the subject commodities conducted during 1980–85 covered sugar. Sugar has been the subject of several Commission investigations in recent years, including investigations pursuant to section 22 of the Agricultural Adjustment Act [2] and antidumping and countervailing duty investigations.[3] In connection with investigation No. 22–45, the Commission recommended that a system of import fees remain in place. In regard to investigation No. 22–46, the Commission recommended that quotas remain in place on certain sugar-containing articles.

The Commission currently is conducting two section 22 investigations on sugar or sugar-containing products. Investigation No. 22–48 is concerned with certain articles containing sugar, and investigation No. 22–49 concerns the modification of the import fee system on sugar. In addition, the Commission is now conducting an investigation under section 104 of the Trade Agreements Act (19 U.S.C. 1671 note) on the sugar content of certain articles from Australia (inv. No. 104–TAA–26).

Comparison with present law

Tariff treatment under the TSUS.—The tariff treatment of the subject articles, including both the applicable staged reductions in the column 1 rates of duty [4] from

---

[1] Source: staff member of Representative Marlenee.

[2] *Sugar: Report to the President on Investigation No. 22–45 Under Section 22 of the Agricultural Adjustment Act,* USITC Publication 1253, June 1982, and *Certain Articles Containing Sugar: Report to the President on Investigation No. 22–46 Under Section 22 of the Agricultural Adjustment Act,* USITC Publication 1462, December 1983.

[3] *Sugar from Belgium, France, and West Germany: Determination of "A Reasonable Indication of Injury" in Inquiries Nos. AA1921–Inq.–20, AA1921–Inq.–21, and AA1921–Inq.–22, Under the Antidumping Act, 1921, as Amended,* USITC Publication 916, September 1978; *Sugar from Canada: Determination of "A Reasonable Indication of Injury in Inquiry No. AA1921–Inq.–27, Under the Antidumping Act, 1921, as Amended,* USITC Publication 977, May 1979; and, *Sugar from the European Community: Determination of the Commission in Investigation No. 104–TAA–7 Under Section 104(b) of the Trade Agreements Act of 1979, Together with the Information Obtained in the Investigation,* USITC Publication 1247, May 1982.

[4] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

the Tokyo round of the Multilateral Trade Negotiations (MTN) and the column 2 duty rates,[5] is set forth in Table 1. For those tariff items where duty reductions after 1981 are shown, the duty rate for 1987 is currently afforded to imports from least developed developing countries (LDDC's).[6] Where an "A" or "A*" appears after the TSUS item number, Nicaraguan imports would ordinarily be eligible for duty free entry under the generalized System of Preferences (GSP),[7] since Nicaragua has not been excluded from GSP benefits for the subject articles. However, Nicaragua is not a beneficiary country under the Caribbean Basin Economic Recovery Act (CBERA).[8] When their entry is permitted, Nicaraguan imports are subject to several other restrictions and programs.

The importation into this country of enumerated types of fresh, chilled, or frozen meat, including beef, is authorized only from countries, and from meat plants in those countries, having standards at least equal to U.S. Federal requirements. As of December 31, 1984, five Nicaraguan plants were authorized to ship meat to the United States. U.S. imports from all sources of certain meats, including fresh, chilled, or frozen beef, are subject to absolute quotas under the Meat Import Act of 1979 (Public Law 88-482); meat imports are controlled under voluntary restraint agreements (VRA's) negotiated under section 204 of the Agricultural Act of 1956 (7 U.S.C. 1854). No Nicaraguan beef was excluded under such restraint programs from 1980 to 1984.

The customs duty on sugar (expressed in the TSUS in a formula with the duty rate varying depending on the degree of sugar purity) is generally given as the rate applicable to 96-degree raw sugar. The President, pursuant to headnote 2, part 10A, schedule 1 of the TSUS, has discretionary authority to establish the duty rate on raw sugar between the limits of 0.625 cent per pound (minimum) and 2.8125 cents per pound (maximum). On January 31, 1985, the President lowered the column 1 rate from the maximum permissible level to the minimum level. The rate of duty applicable to liquid or invert sugar (TSUS item 155.30) is the rate applicable to refined sugar. The column 1 rate of duty applicable to flavored and blended sirups and flavored sugars (TSUS item 155.75) is 8.3 percent ad valorem. Sugar classified in all three TSUS provisions is eligible for duty-free entry under the GSP.

Imports of sugar under TSUS items 155.20 and 155.30 are subject to an absolute world quota pursuant to section 22 of the Agricultural Adjustment Act. The quota is allocated on a country-by-country basis, and those countries receiving quota amounts are allocated a percentage share of the overall quota; Nicaragua's quota share is 2.1 percent. However, effective on September 26, 1983, Nicaragua's quota was reduced to 6,000 short tons (headnote 3, subpart A, part 10, schedule 1 of the TSUS), in Proclamation 5104 of September 23, 1983 (48 F.R. 44057).

A quota quantity of "None" prohibits the importation of flavored or blended sirups and flavored sugars (TSUS item 155.75) containing in excess of a de minimis amount (dry weight) of sugar derived from sugar cane or sugar beets and not prepared for marketing to the retail consumers in the identical form and package in which imported. Other sugar-containing articles and preparations are also covered by quantitative restraints (see TSUS items 958.10-958.30).

Finally, the CBERA of 1983 provided annual absolute quotas for imports of sugar from the Dominican Republic, Guatemala, and Panama, free of customs duties, effective January 1, 1984, as follows, with other CBERA countries given allocations as discussed above:

---

[5] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[6] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[7] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[8] The CBERA affords nonreciprocal tariff preferences to developoing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

	Metric tons
Dominican Republic	780,000
Guatemala	210,000
Panama	160,000
Total	1,150,000

Tariff treatment under the proposed Harmonized System (HS).—According to the September 1984 draft converted tariff schedule issued by the Trade Policy Staff Committee, the HS tariff classification for the subject commodities and proposed rates of duty are shown in table 2.

Structure of the domestic industries

Beef.—Two categories of producers are involved in manufacturing beef—namely, those which grow live cattle and those which process such cattle into beef. U.S. cattle growing and processing is concentrated in the Western range lands,[9] the Corn Belt,[10] and the Southeastern States.[11] During 1984, there were 1,547,290 cattle growing operations in the United States, and about 1,500 Federally inspected cattle slaughtering plants.

Data are not available on the market share held by the five largest growers in the cattle growing industry. Although there has been increased concentration in the cattle growing industry in recent years, even the largest growers are believed to account for only a small part of total production. Published data are not available on the share of the market held by the five largest beef processors. However, the Packers and Stockyards Administration of the U.S. Department of Agriculture publishers a list, in alphabetical order only, of the 10 largest meat packing companies in the United States, based on the total dressed weight of all livestock slaughtered. The 10 firms listed for 1982, the latest year for which data are available, are Armour & Co; Dubuque Packing Co.; Excel Corporation; Geo. A. Hormel & Co.; IBP, Inc.; John Morrell & Co.; Land-O-Lakes, Inc.; Monfort of Colorado, Inc.; Swift Independent Packing Company; and Wilson Foods Corporations. The major beef packing plants of these companies are located in the Western range lands and in the Corn Belt.

Bananas.—Hawaii is the only commercial producer of bananas in the United States, but output in that State is negligible in relation to domestic consumption of the fruit. Historically, there was limited production of bananas in Puerto Rico; however, in recent years production has been small and separate data are not available. The United States is the world's largest importer of fresh bananas.

Sugar.—Three principal types of firms contribute to the production of sugar—sugar cane/beet growers, sugar millers, and sugar refiners. Sugar refiners use domestic and imported raw sugar to make refined sugar. In 1984 there were 18 refiners in operations in this country using imports from many countries. Nicaraguan imports comprise only 6,000 short tons raw value of total imports.

Domestic production

Beef.—U.S. production of beef and veal increased steadily from 1980 to 1984, as shown in the following tabulation:

[Million pounds, carcass weight]

Year	Beef	Veal	Total
1980	21,469	379	21,848
1981	22,214	415	22,629
1982	22,366	423	22,789
1983	23,060	428	23,488
1984	23,409	477	23,886

[9] The range lands are located in 15 States: Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

[10] Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, and Ohio comprise the Corn Belt.

[11] Alabama, Arkanas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

The value of meat packing plants' shipments of beef and veal increased steadily from 1980 to 1982, as shown in the following tabulation (in millions of dollars):

[In millions of dollars]

Product	1980	1981	1982
Beef	37,301.7	38,157.1	40,522.6
Veal	356.9	356.9	361.1
Total	37,658.6	38,514.0	40,883.7

It is believed that the value of shipments continued to increase in 1983 and 1984.

Bananas.—U.S. commercial production of fresh bananas, all in Hawaii, nearly doubled from 4.6 million pounds, valued at $1.1 million, in 1980 to an estimated 9.2 million pounds, valued at $2.7 million, in 1984 (table 3). Production was down in 1983 due to extensive storm damage.

Sugar.—U.S production of sugar has fluctuated within a narrow range, averaging about 6 million tons (raw value) annually during 1980–84 (table 4). Production has been about equally divided between beet sugar and cane sugar. Additionally, refined sugar is produced domestically from imported raw sugar. Such production has been decreasing in recent years.

According to data reported in the 1982 Census of Manufactures, U.S. production of flavored sugars and flavored sirups is large and growing; however, separate annual data are not available. In 1982, the latest year for which data are available, shipments of flavored sugars and flavored sirups totaled an estimated 10.5 million pounds.

U.S. imports

Beef.—During 1980–84, the only U.S. imports of beef and veal from Nicaragua were fresh, chilled, or frozen beef classified in TSUS item 106.10. The quantity of such imported declined irregularly from 46 million pounds, valued at $63 million, in 1980 to a 1984 level of 11 million pounds, valued at $10 million, as shown in table 5. Nicaragua is only a minor U.S. supplier of beef, and the names and locations of importers are not available.

Australia, New Zealand, and Canada have been the leading suppliers of imported fresh, chilled, or frozen beef, accounting for 89 percent of the value in 1984. Brazil and Argentina accounted for more than nine-tenths of the value of U.S. imports of canned corned beef, canned beef other than corned beef, and other prepared or preserved beef in 1984 (tables 6, 7, and 8). U.S. imports of beef and veal from countries receiving the column 2 rate of duty have been negligible or nil in recent years. Two CBERA beneficiaries, Costa Rica and Honduras, were the fourth and fifth largest suppliers of U.S. imports of fresh, chilled, or frozen beef and veal in 1984, accounting for 4 percent and 2 percent, respectively, of the value of such imports.

Bananas.—During 1980–84, U.S. imports of fresh, dried, or otherwise prepared or preserved bananas rose irregularly form 5.2 billion pounds, valued at $421 million, in 1980 to about 6 billion pounds, valued at $637 million, in 1984. Imports were lower in 1983 due to extensive tropical storm damage throughout the major production areas of Central America (table 9). Imports of fresh bananas accounted for virtually all of the imports during the 5-year period. The bulk of 1984 imports were fresh bananas (5.7 billion pounds), which are dutiable at a column 1 rate of "free".

In 1984, Costa Rica and Honduras, both GSP-eligible suppliers and also designated countries under the CBERA, were the leading suppliers of bananas, together accounting for 2.5 billion pounds ($294 million) or 44 percent of total imports (table 9). Total imports from CBERA countries in 1984 amounted to 3.3 billion pounds, valued at $367 million. Ecuador and Colombia, also GSP- eligible suppliers, accounted for 19 and 18 percent, respectively, of the total. Imports from Nicaragua, at 150 million pounds in 1984, accounted for less than 1 percent of the total and consisted entirely of fresh fruit. There were no column 2 imports of bananas in 1984.

In recent years, over 100 firms imported fresh, dried, and otherwise prepared or preserved bananas, with 10 accounting for the bulk of such imports in 1984. The large-volume firms are located primarily in the large metropolitan areas of the east and west coasts of the United States as well as the Southwest. Most have been importing produce for many years, and bananas are only one of many different products which they import. The names and addresses of the principal importers are not available. Customs brokers are responsible for the entry of much of the subject ba-

nanas. Such firms do not take physical possession of the imported goods; they are responsible for executing the necessary transactions involved in moving the goods through the U.S. Customs Service ports of entry for other persons.

Sugar.—U.S. imports of sugar have been limited under world and country-by-country quotas since May 11, 1982. During 1980–84, imports of sugar peaked in 1981 at 5.1 million short tons (raw value) (table 10). They amounted to 2.6 million short tons in 1982, 2.9 million tons in 1983, and 3.6 million tons in 1984. The principal sources of imported sugar in recent years have been the Dominican Republic, Brazil, the Philippines, and Australia. About 60 percent of the sugar imported in recent years has been entered duty-free under the GSP or the CBERA. Virtually all of the sugar imported into the United States in recent years has been raw sugar.

U.S. imports of flavored or blended sirups and flavored sugars increased rapidly following the imposition of import quotas on sugar in May 1982. The President has proclaimed, as discussed above, zero quotas to halt imports of blended sirups and of flavored sugars and flavored sirups containing sugar if such products are not packaged for retail sale, as well as on other sugar-containing articles. Imports of flavored or blended sirups and flavored sugars into the United States amounted to 402 million pounds, valued at $47 million, in 1984. On the basis of value, 95 percent of the imports were from Canada; there were no imports from Nicaragua (table 11).

U.S. exports

Beef.—U.S. exports of fresh, chilled, or frozen beef and veal more than doubled during 1980–84, rising from 106 million pounds, valued at $201 million, in 1980 to 219 million pounds, valued at $418 million, in 1984 (table 12). U.S. exports of prepared or preserved beef (except canned) rose irregularly from 22 million pounds, valued at $47 million, in 1980 to 29 million pounds, valued at $55 million, in 1984 (table 13). During 1980–84, U.S. exports of canned beef (except canned corned beef, a product which is not produced in the United States) ranged from 7 million pounds, valued at $5 million, in 1982 to 3 million pounds, valued at $3 million, in 1983 (table 14). Nicaragua has not been a significant market for U.S. exports of beef and veal.

Although specific names and locations are not available, the 10 largest meat packing companies listed in the structure of the domestic industry section of this report are believed to be among the largest exporters.

Bananas.—U.S. export data for bananas are not separately reported, but exports of such fruit are believed to be negligible or nil.

Sugar.—The United States has not normally been a significant exporter of sugar. During 1980–84, exports ranged irregularly from 62,000 short tons (raw value) to 1.0 million short tons (table 15). The higher export levels in 1980 and 1981 reflect the use of the drawback provision available to U.S. refiners. The reduced exports in 1982 and 1983 reflect the fact that from May 11, 1982, through June 28, 1983, imports of sugar were restricted under specific guotas which did not permit additional quantities for reexport. As of June 28, 1983, regulations became effective allowing additional quantities of sugar to be imported outside the quota system for reexport.

Drawback is provided for in section 313 of the Tariff Act of 1930 (19 U.S.C. 1313). Under one type of drawback, a manufacturer which imports merchandise and then exports products produced from the imported merchandise is eligible to receive a refund of the duties and fees paid on the imports, less 1 percent.[12] Additionally, if both imported and domestic materials of the same kind and quality are used within a specified period to produce a product, some of which is exported, a drawback equal to 99 percent of the duties and fees paid on the imported material (or proportional share thereof) is payable on the exports. Under this procedure, called substitution drawback, it does not matter whether the actual imported material or similar domestic material was used to produce th exported article (19 U.S.C. 1313(b)).[13]

The use of drawback procedures is particularly advantageous when current duties and fees are lower than those during a recent time period, as is presently true in the case of raw sugar. Domestic refiners may have paid duties and fees totaling as much as 6.8808 cents per pound on imported raw sugar in late 1981 and early 1982. These refiners could import raw sugar, pay the present duties and fees (the sugar may be free of ordinary customs duties if from GSP suppliers), refine and export the sugar, and claim drawback based on the previous duties and fees paid.

---

[12] Under Customs Service regulations, procedures are established for refunding any dumping, countervailing, or marking duties paid on imports as drawback (19 CFR 22.41).

[13] To claim drawback, exports must be made within 5 years of the date of importation, and the product to be exported must be produced during the first 3 of those years. Also, claims for drawback must be filed within 3 years of the date of exportation.

Apparent consumption

Beef.—The quantity of apparent U.S. consumption of beef and veal increased steadily during 1980–84, as shown in the following tabulation (in millions of pounds):

Product	1980	1981	1982	1983	1984
Beef	23,320	23,756	23,988	24,710	24,885
Veal	410	438	457	457	509
Total	23,730	24,194	24,445	25,167	25,394

Virtually all of this meat consumed was beef; less than 2 percent of the total consisted of veal. The value of apparent U.S. consumption of beef and veal also increased steadily during 1980–84, from $41.0 billion to $44.5 billion.

Bananas.—During 1980–83, apparent U.S. consumption of bananas rose from 5.2 billion pounds in 1980 to about 6.0 billion pounds in 1984. The ratio imports to consumption was 100 percent throughout the period, since imports accounted for virtually all of domestic consumption.

Sugar.—U.S. consumption of sugar during 1980–84 turned sharply downward, from 10.1 million short tons in 1980 to 8.7 million short tons in 1984. The drop in sugar consumption in the United States has been accompanied by a corresponding increase in the consumption of alternative sweeteners, particularly high-fructose corn sirup (HSCS). HFCS competes with sugar in liquid uses. It has virtually displaced sugar as a caloric sweetener in soft drinks and has significantly reduced sugar usage in the canned fruits industry.

U.S. consumption of blended or flavored sirups and flavored sugars has been increasing slowly; however, annual data are not available. Increased consumption, particularly of table sirups, reflects population growth and increased specialty foods popularity. Consumption in 1982, the latest year for which data are available, is estimated at 11 million pounds.

Effect on revenue

Beef.—In 1984, the duties collected in imports of beef and veal from Nicaragua amounted to $210,000. Had the import ban been in effect that year, customs revenues collected on aggregate imports of beef and veal would have been reduced by that amount.

Bananas.—The enactment of the legislation would not affect customs revenues, based on 1984 imports from Nicaragua. Fresh bananas are free of duty, and no imports of dried or otherwise prepared or preserved bananas entered from Nicaragua.

Sugar.—The prohibition of imports of sugar articles from Nicaragua would have no effect on customs revenues, as all such articles from Nicaragua are eligible for duty-free treatment under the GSP.

Technical comments

On May 1, 1985, the President issued Executive Order 12513 prohibiting trade and certain other transactions involving Nicaragua, effective May 7, 1985. Thus, the commodities covered by the legislation (beef, bananas, and sugar) are already prohibited from importation from Nicaragua by the Order. While the legislation provides for an end to the prohibition on trade with Nicaragua when certain conditions are met, the Executive Order does not.

The legislation would cover all beef but does not specifically refer to veal, although it is assumed to include veal. For clarification, the term "or veal" should be added after the references to beef.

The word "produce", in line 10 page 2, should probably appear as "product".

GATT considerations

The enactment of the legislation may be viewed as a violation of the United States' obligation to maintain nondiscriminatory treatment of articles imported from another contracting party, Nicaragua, pursuant to Articles I and XIII. Accordingly, Nicaragua could initiate a complaint alleging the nullification or impairment of concessions previously granted by the United States under the terms of Article XXIII, and could undertake retaliatory action or withdraw concessions of benefit to the United States. The United States would likely attempt to justify its actions based on Article XXI of the GATT, which provides exceptions to GATT principles based on national security concerns and the goal of maintaining world peace. In a case currently under consideration before the GATT Council, and brought by Nica-

ragua against the United States to challenge U.S. economic sanctions, the United States is relying on Article XXI and has argued that such stated security concerns are not subject to review.

Table 1.--Beef, bananas, and sugar: U.S. rates of duty, by TSUS items

(Cents per pound; percent ad valorem)

TSUS item No. 1/	Article description (abridged)	Pre-MTN col. 1 rate of duty 2/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1 -								Col. 2 rate of duty	Ad valorem equivalent of 1984 col. 1 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987		
106.10	Fresh, chilled, or frozen meat of cattle.	3¢	2.5¢	2¢	2¢	2¢	2¢	2¢	2¢	2¢	6¢	2.2%
107.20A	Beef sausages, in airtight containers.	7.5%	3/	3/	3/	3/	3/	3/	3/	3/	30%	7.5%
107.25(pt.)A	Beef sausages except in airtight containers.	5%	3/	3/	3/	3/	3/	3/	3/	3/	20%	5.0%
107.40A	Beef or veal cured or pickled, valued not over 30¢ per pound.	3¢	2.7¢	2.5¢	2.2¢	2¢	1.7¢	1.5¢	1.2¢	1¢	4.5¢	
107.45A	Beef or veal cured or pickled, valued over 30¢ per pound.	10%	3/	3/	3/	3/	3/	3/	3/	3/	30%	10.0%
107.48A*	Corned beef in airtight containers.	7.5%	4.5%	3%	3%	3%	3%	3%	3%	3%	30%	3.0%
107.52	Beef, except corned beef, in airtight containers.	7.5%	4.5%	3%	3%	3%	3%	3%	3%	3%	30%	3.0%
107.55	Other prepared or preserved beef, valued not over 30¢ per pound.	3¢	2.5¢	2¢	2¢	2¢	2¢	2¢	2¢	2¢	6¢	4/
107.61	High quality beef, prepared, whether fresh, chilled, or frozen, but not otherwise preserved, valued over 30¢ per pound.	10%	7%	4%	4%	4%	4%	4%	4%	4%	20%	4.0%
107.62	Beef, prepared, whether fresh, chilled, or frozen, but not otherwise preserved, except high quality beef, valued over 30¢ per pound.	10%	3/	3/	3/	3/	3/	3/	3/	3/	20%	10.0%
107.63	Other prepared or preserved beef, valued over 30¢ per pound.	10%	7%	4%	4%	4%	4%	4%	4%	4%	20%	4.0%
107.70(pt.)A	Other (mixtures, principally of beef and pork, valued not over 30¢ per pound).	1.5¢	1.3¢	1.2¢	1.1¢	1¢	0.9¢	0.8¢	0.7¢	0.6¢	6¢	4/
107.78(pt.)A	Other (mixtures principally of beef and pork, valued over 30¢ per pound).	5%	3/	3/	3/	3/	3/	3/	3/	3/	20%	5.0%
107.80(pt.)A*	Extract of meat, including fluid.	1¢	0.9¢	0.7¢	0.6¢	0.5¢	0.4¢	0.2¢	0.1¢	Free	15¢	0.1%

Table 1.—Beef, bananas, and sugar: U.S. rates of duty, by TSUS items—Continued

(Cents per pound; percent ad valorem)

TSUS item No. 1/	Article description (abridged)	Pre-MTN col. 1 rate of duty 2/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—								Col. 2 rate of duty	Ad valorem equivalent of 1984 col. 1 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987		
	Bananas, fresh, or prepared or preserved:											
146.40	Fresh	Free	3/	3/	3/	3/	3/	3/	3/	3/	Free	Free.
146.42A	Dried	3.5%	3.1%	2.6%	2.2%	1.8%	1.3%	0.9%	0.4%	Free	35%	1.3%.
146.44A*	Otherwise prepared or preserved	7.5%	4.5%	3%	3%	3%	3%	3%	3%	3%	35%	3%.
	Sugars and syrups derived from sugar cane or sugar beets:											
155.20A*	Principally of crystalline structure or in dry amorphous form	0.6625¢ per lb. less 0.009375¢ per lb. for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 0.428125¢ per lb.	3/	3/	3/	3/	3/	3/	3/	3/	1.9875¢ per lb. less 0.028125¢ per lb. for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 1.284375¢ per lb.	3.0%.
155.30A	Not principally of crystalline structure and not in dry amorphous form, containing soluble non-sugar solids (excluding any foreign substance that may have been added or developed in the product) equal to 6% or less by weight of the total soluble solids.	Dutiable on total sugars at the rate per lb applicable under item 155.20 to sugar testing 100 degrees.	3/	3/	3/	3/	3/	3/	3/	3/	Dutiable on total sugars at the rate per lb applicable under item 155.20 to sugar testing 100 degrees.	3.0%
155.75A	Flavored sugars, sirups, and molasses and flavored or unflavored blended sirups.	15%	13.9%	12.8%	11.6%	10.5%	9.4%	8.3%	7.1%	6%	20%	9.4%.

1/ The designation "A" or "A*" indicates that the item is currently designated as an eligible article for duty free treatment under the U.S. Generalized System of Preferences. "A" indicates that all beneficiary developing countries are eligible for the GSP. "A*" indicates that certain of these countries, specified in general headnote 3(c) of the Tariff Schedules of the United States Annotated, are not eligible.

2/ Rate effective prior to Jan. 1, 1980.

3/ There was no change in the col. 1 rate resulting from the Multilateral Trade Negotiations.

4/ No imports.

TABLE 2.—BEEF, BANANAS, AND SUGAR: U.S. RATES OF DUTY, BY HS ITEMS [1]

HS commodity code number	Description	Rates of duty	
		Col. 1 [2]	Col. 2
0201	Meat of bovine animals, fresh or chilled:		
0201.10.00	Carcasses and half-carcasses	4.4¢/kg	13.2¢/kg.
0201.20	Other cuts with bone in:		
	Processed:		
0201.20.20	High-quality beef cuts	4%	20%.
0201.20.40	Other	10%	20%.
0201.20.60	Other	4.4¢/kg	13.2¢/kg.
0201.30	Boneless:		
	Processed:		
0201.30.20	High-quality beef cuts	4%	20%.
0201.30.40	Other	10%	20%.
0201.30.60	Other	4.4¢/kg	13.2¢/kg.
0202	Meat of Bovine animals, frozen:		
0202.10.00	Carcasses and half-carcasses	4.4¢/kg	13.2¢/kg.
0202.20	Other cuts with bone in:		
	Processed:		
0202.20.20	High-quality beef cuts	4%	20%.
0202.20.40	Other	10%	20%.
0202.20.60	Other	4.4¢/kg	13.2¢/kg.
0202.30	Boneless:		
	Processed:		
0202.30.20	High-quality beef cuts	4%	20%.
0202.30.40	Other	10%	20%.
0202.30.60	Other	4.4¢/kg	13.2¢/kg.
1601.00	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products:		
	Other:		
1601.00.40	Beef in airtight containers	7.5%	30%.
1601.00.60	Other	5%	20%.
1602	Other prepared or preserved meat, meat offal or blood.		
1602.50	Of bovine animals:		
	Beef in airtight containers:		
1602.50.10	Corned beef	7.5%	30%.
1602.50.20	Other	3%	30%.
	Other:		
1602.50.40	Beef or veal, cured or pickled	10%	30%.
1602.50.60	Other	4%	20%.
1602.90.00	Other, including preparations of blood of any animal.	5%	20%.
1603	Extracts and juices of meat, fish or crustaceans, molluscs or other aquatic invertebrates:		
1603.00.90	Other	Free	13%.
0803	Bananas and plantains, fresh or dried.		
0803.00.20	Bananas	Free	Free.
2008	Fruit, nuts and other edible parts of plants, otherwise: prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:		
	Other, including mixtures other than those of subheading 2008.19:		
2008.99	Other:		
	Bananas:		
2008.99.13	Pulp	7.5%	35%.
2008.99.15	Other	3%	35%.

TABLE 2.—BEEF, BANANAS, AND SUGAR: U.S. RATES OF DUTY, BY HS ITEMS [1]—Continued

HS commodity code number	Description	Rates of duty	
		Col. 1 [2]	Col. 2
1701	Cane of beet sugar and chemically pure sucrose, in solid form:		
	Raw sugar not containing added flavoring or coloring matter:		
1701.11.00	Cane sugar	6.5725323¢/kg. less 0.0930075¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 4.2453378¢/kg.	6.5725323¢/kg. less 0.0930075¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 4.2453378¢/kg.
1701.12.00	Beet sugar	6.5725323¢/kg. less 0.0930075¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 4.2453378¢/kg.	6.5725323¢/kg. less 0.0930075¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 4.2453378¢/kg.
	Other:		
1701.91	Containing added flavoring or coloring matter:		
1701.91.20	Containing added coloring but not added flavoring matter.	6.5725323¢/kg. less 0.0930075¢/kg. for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 4.2453378¢/kg.	6.5725323¢/kg. less 0.0930075¢/kg. for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 4.2453378¢/kg.
1701.91.40	Containing added flavoring matter whether or not containing added coloring matter.	6%	20%.
1701.99.00	Other	6.5725323¢/kg. less 0.0930075¢/kg. for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 4.2453378¢/kg.	6.5725323¢/kg. less 0.0930075¢/kg. for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 4.2453378¢/kg.
1702	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing: added flavoring or coloring: matter; artificial honey, whether or not mixed with natural honey; caramel:		
1702.90	Other including invert sugar:		
	Derived from sugar cane or sugar beets:		
1702.90.20	In solid form	6.5725323¢/kg. less 0.0930075¢/kg. for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 4.2453378¢/kg.	6.5725323¢/kg. less 0.0930075¢/kg. for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 4.2453378¢/kg.
	Other:		
1702.90.30	Containing soluble non-sugar solids (excluding any foreign substance that may have been added or developed in the product) equal to 6 percent or less by weight of the total soluble solids.	Dutiable on total sugars at the rate per kg. applicable under heading 1701 to sugar testing 100 degrees.	Dutiable on total sugars at the rate per kg. applicable under heading 1701 to sugar testing 100 degrees.

[1] Rates of duty proposed as of September 1984.
[2] Represents the "General" col. 1 rate.

TABLE 3.—BANANAS, FRESH, DRIED, OR OTHERWISE PREPARED OR PRESERVED: U.S. PRODUCTION, EXPORTS, IMPORTS, AND APPARENT CONSUMPTION, 1980–84

[Quantity in thousands of pounds; value in thousands of dollars; unit value per pound]

Year	Production [1]	Exports [2]	Imports [3]	Apparent consumption	Ratio (percent) of imports to consumption
			Quantity		
1980	4,600		5,197,568	5,202,168	100
1981	6,000		5,433,425	5,439,425	100
1982	5,750		5,705,002	5,710,752	100
1983	4,470		5,403,418	5,407,888	100
1984	[4] 9,160		5,705,516	5,714,676	100
			Value		
1980	1,099		420,599	([5])	
1981	1,542		531,243	([5])	
1982	1,645		565,426	([5])	
1983	1,395		573,390	([5])	
1984	[4] 2,730		636,516	([5])	
			Unit value		
1980	$0.24		$0.08		
1981	.26		.10		
1982	.29		.10		
1983	.31		.11		
1984	.30		.11		

[1] Data for Hawaii only.
[2] Not meaningful (see text).
[3] Includes TSUS items 146.40 (fresh bananas), 146.42 (dried bananas), and 146.44 (otherwise prepared or preserved bananas).
[4] Estimated.
[5] Not available.

Source: Production compiled from official statistics of the U.S. Department of Agriculture, Statistical Reporting Service, Honolulu, Hawaii; exports and imports, compiled from official statistics of the U.S. Department of Commerce.

TABLE 4.—SUGAR: U.S. PRODUCTION, IMPORTS, EXPORTS, ENDING STOCKS, AND CONSUMPTION, 1980–84

[Thousand short tons, raw value]

Year	Production	Imports	Exports	Ending stocks [1]	Consumption [2]
1980	5,914	4,191	661	3,082	10,063
1981	6,273	5,121	1,146	3,461	9,869
1982	6,016	2,640	70	3,068	8,979
1983	5,749	2,942	260	2,570	8,929
1984 [3]	5,912	3,648	367	3,086	8,677

[1] Stocks held by primary distributors and the Commodity Credit Corporation.
[2] Does not include sugar imported in blends or mixtures.
[3] Preliminary.

Source: Compiled from official statistics of the U.S. Department of Agriculture, Statistical Reporting Service.

TABLE 5.—BEEF AND VEAL, FRESH, CHILLED, OR FROZEN: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Austral	801,247	567,094	715,298	613,404	535,410
N Zeal	328,100	340,021	345,838	359,165	319,963

TABLE 5.—BEEF AND VEAL, FRESH, CHILLED, OR FROZEN: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84—Continued

Source	1980	1981	1982	1983	1984
			Quantity (1,000 pounds)		
Canada	94,395	119,354	124,985	128,439	167,102
C Rica	46,013	62,403	52,392	35,025	43,431
Hondura	57,917	48,265	35,398	36,341	22,394
Guatmal	19,166	11,550	6,399	19,483	19,477
Nicarag	46,031	19,069	30,363	26,973	10,513
Denmark	471	6,009	1,497	0	5,737
Salvadr	4,499	328	2,607	3,604	3,479
Ireland	9,222	5,508	5,204	9,768	4,273
All other	6,795	19,916	17,694	14,599	6,629
Total	1,413,855	1,199,517	1,337,675	1,246,800	1,138,410
			Value (1,000 dollars)		
Austral	879,643	564,157	625,833	566,562	477,911
N Zeal	354,179	330,220	310,157	335,944	296,534
Canada	95,493	108,431	114,097	112,270	141,221
C Rica	59,893	70,375	53,378	36,928	44,765
Hondura	63,380	49,549	35,496	35,594	21,930
Guatmal	23,684	12,898	6,931	17,056	16,411
Nicarag	62,517	22,238	32,159	27,080	9,770
Denmark	446	5,586	1,236	.....	4,833
Salvadr	5,496	339	2,579	3,603	3,503
Ireland	9,860	4,765	4,354	8,519	3,434
All other	7,886	23,552	20,484	17,114	6,989
Total	1,562,476	1,192,109	1,206,704	1,160,670	1,027,300
			Unit value (per pound)		
Austral	$1.10	$0.99	$0.87	$0.92	$0.89
N Zeal	1.08	0.97	0.90	0.94	0.93
Canada	1.01	0.91	0.91	0.87	0.85
C Rica	1.30	1.13	1.02	1.05	1.03
Hondura	1.09	1.03	1.00	0.98	0.98
Guatmal	1.24	1.12	1.08	0.88	0.84
Nicarag	1.36	1.17	1.06	1.00	0.93
Denmark	0.95	0.93	0.83	.....	0.84
Salvadr	1.22	1.03	0.99	1.00	1.01
Ireland	1.07	0.87	0.84	0.87	0.80
All other	1.16	1.18	1.16	1.17	1.05
Average	1.11	0.99	0.90	0.93	0.90

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 6.—CANNED CORNED BEEF: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
			Quantity (1,000 pounds)		
Brazil	44,360	42,260	35,669	53,711	55,799
Argent	29,751	19,083	29,997	41,188	32,704
Uruguay	1,670	3,102	2,964	1,514	4,312
N Zeal	119	168	151	274	223
Denmark	30	32	63	381	148
Austral	49	18	0	13	33
Colomb	0	0	0	0	31
Fr Germ	0	0	0	0	32
Canada	0	0	0	1	1

TABLE 6.—CANNED CORNED BEEF: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84—Continued

Source	1980	1981	1982	1983	1984
Bolivia	0	0	0	34	0
All other	45	64	56	0	0
Total	76,024	64,727	68,901	97,116	93,282
	Value (1,000 dollars)				
Brazil	66,841	59,945	38,839	55,932	53,155
Argent	43,377	27,474	31,077	39,253	29,690
Uruguay	2,560	4,509	3,285	1,615	4,261
N Zeal	254	294	377	544	510
Denmark	29	26	52	362	167
Austral	83	37	.....	18	53
Colomb	.....	.....	.....	.....	31
Fr Germ	.....	.....	.....	.....	22
Canada	.....	.....	.....	2	4
Bolivia	.....	.....	.....	43	.....
All other	68	89	62	.....	.....
Total	113,211	92,373	73,693	97,768	87,894
	Unit Value (per pounds)				
Brazil	$1.51	$1.42	$1.09	$1.04	$0.95
Argent	1.46	1.44	1.04	0.95	0.91
Uruguay	1.53	1.45	1.11	1.07	0.99
N Zeal	2.14	1.74	2.50	1.99	2.29
Denmark	0.96	0.82	0.83	0.95	1.13
Austral	1.70	2.06	.....	1.36	1.62
Colomb	.....	.....	.....	.....	1.03
Fr Germ	.....	.....	.....	.....	0.69
Canada	.....	.....	.....	2.69	3.35
Bolivia	.....	.....	.....	1.25	.....
All other	1.52	1.39	1.10	.....	.....
Average	1.49	1.43	1.07	1.01	0.94

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 7.—CANNED BEEF (EXCEPT CORNED BEEF): U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Brazil	6,171	4,154	6,737	18,444	22,534
Argent	10,382	7,332	7,325	12,289	10,263
Canada	5	1	3	1,879	556
Uruguay	336	403	147	134	615
Italy	90	96	97	152	165
Malaysa	0	0	0	0	38
Switztd	0	0	0	1	5
Austral	32	4	(1)	206	21
Yugoslv	0	0	0	0	17
Denmark	0	0	0	0	6
All other	1,025	292	0	(1)	1
Total	18,040	12,282	14,308	33,107	34,221
	Value (1,000 dollars)				
Brazil	9,622	6,036	8,540	21,039	23,243

TABLE 7.—CANNED BEEF (EXCEPT CORNED BEEF): U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84—Continued

Source	1980	1981	1982	1983	1984
Argent	15,020	10,751	7,520	12,488	10,209
Canada	8	2	27	3,529	1,140
Uruguay	441	593	214	162	679
Italy	160	201	189	268	301
Malaysa					43
Switzld				6	31
Austral	28	9	1	311	22
Yugoslv					14
Denmark					5
All other	665	223		1	4
Total	25,944	17,814	16,491	37,805	35,692
	Unit value (per pound)				
Brazil	$1.56	$1.45	$1.27	$1.14	$1.03
Argent	1.45	1.47	1.03	1.02	0.99
Canada	1.54	1.72	10.86	1.88	2.05
Uruguay	1.31	1.47	1.46	1.20	1.10
Italy	1.77	2.09	1.95	1.76	1.83
Malaysa					115
Switzld				6.74	5.64
Austral	0.90	2.20	6.00	1.51	1.02
Yugoslv					0.83
Denmark					0.95
All other	0.65	0.76		1.43	5.96
Average	1.44	1.45	1.15	1.14	1.04

[1] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 8.—BEEF, PREPARED OR PRESERVED (EXCEPT CANNED BEEF): U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Argent	33,753	42,207	29,375	32,885	35,052
Denmark	15,308	16,871	18,393	16,977	15,498
Brazil	2,720	6,536	5,009	2,796	5,401
Uruguay	248	127	310	871	2,430
Austral	503	556	1,870	1,031	925
Canada	1,604	1,344	1,491	1,830	1,525
Nethlds	544	1,482	921	1,447	1,447
N Zeal	873	1,030	817	693	749
Fr Germ	292	339	205	164	279
Hungary	0	0	26	80	262
All othsr	1,350	449	182	236	301
Total	57,194	70,941	58,599	59,011	63,872
	Value (1,000 dollars)				
Argent	66,278	89,745	52,555	59,982	65,316
Denmark	16,791	18,405	20,952	17,596	16,551
Brazil	5,691	12,700	7,272	4,610	7,320
Uruguay	459	266	412	1,065	3,003
Austral	1,122	1,509	4,214	2,596	2,701
Canada	1,971	1,788	2,177	2,550	2,205
Nethlds	452	1,112	689	1,163	1,071

TABLE 8.—BEEF, PREPARED OR PRESERVED (EXCEPT CANNED BEEF): U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84—Continued

Source	1980	1981	1982	1983	1984
N Zeal	827	877	649	436	554
Fr Germ	469	487	387	266	431
Hungary			28	62	188
All other	1,955	809	443	499	376
Total	96,015	127,699	89,779	90,826	99,716
	Unit value (per pound)				
Argent	$1.96	$2.13	$1.79	$1.82	$1.86
Denmark	1.10	1.09	1.14	1.04	1.07
Brazil	2.09	1.94	1.45	1.65	1.36
Uruguay	1.85	2.10	1.33	1.22	1.24
Austral	2.23	2.71	2.25	2.52	2.92
Canada	1.23	1.33	1.46	1.39	1.45
Nethids	0.83	0.75	0.75	0.80	0.74
N Zeal	0.95	0.85	0.79	0.63	0.74
Fr Germ	1.61	1.44	1.89	1.63	1.54
Hungary			1.08	0.77	0.72
All other	1.45	1.80	2.44	2.11	1.25
Average	1.68	1.80	1.53	1.54	1.56

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 9.—BANANAS, FRESH, DRIED, OR OTHERWISE PREPARED OR PRESERVED:[1] U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Costa Rica	1,049,608	1,126,444	1,146,314	1,284,936	1,292,474
Honduras	1,474,510	1,286,964	1,293,434	1,102,877	1,192,397
Ecuador	1,155,285	1,165,541	1,320,225	984,224	1,102,430
Colombia	464,894	677,217	860,057	827,926	1,033,785
Panama	259,159	379,528	380,300	487,138	390,177
Guatemala	488,831	555,115	556,612	469,037	402,963
Nicaragua	233,155	165,325	83,565	136,363	149,918
Mexico	39,286	20,205	25,256	81,551	67,702
All other	32,840	57,086	39,239	29,366	73,670
Total	5,197,568	5,433,425	5,705,002	5,403,418	5,705,516
	Value (1,000 dollars)				
Costa Rica	95,101	117,669	119,946	146,335	150,066
Honduras	121,377	141,992	143,070	127,638	143,699
Ecuador	89,762	101,138	119,387	92,123	121,621
Colombia	36,317	66,447	87,480	83,139	101,666
Panama	17,416	37,544	39,434	59,472	49,581
Guatemala	31,366	36,896	35,639	29,308	24,008
Nicaragua	20,926	17,100	9,558	20,217	23,509
Mexico	2,568	2,275	3,092	9,177	7,391
All other	5,766	10,182	7,820	5,981	14,975
Total	420,599	531,243	565,426	573,390	636,516
	Unit value (per pound)				
Costa Rica	$0.09	$0.10	$0.10	$0.11	$0.12
Honduras	.08	.11	.11	.12	.12
Ecuador	.08	.09	.09	.09	.11

TABLE 9.—BANANAS, FRESH, DRIED, OR OTHERWISE PREPARED OR PRESERVED:[1] U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84—Continued

Source	1980	1981	1982	1983	1984
Colombia	.08	.10	.10	.10	.10
Panama	.07	.10	.10	.12	.13
Guatemala	.06	.07	.06	.06	.06
Nicaragua	.09	.10	.11	.15	.16
Mexico	.07	.11	.12	.11	.11
All other	.18	.18	.20	.20	.20
Average	.08	.10	.10	.11	.11

[1] Includes TSUS items 146.42–146.46.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 10.—SUGAR: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 short tons)				
Dom Rep	573	747	363	457	533
Phil R	383	255	203	262	416
Brazil	836	1,069	273	363	356
Austral	262	881	169	217	256
Argent	155	445	171	219	221
Guatmal	207	212	61	150	151
Peru	53	0	76	90	108
C Rica	80	62	57	64	92
Rep Saf	137	0	36	47	83
Hondura	97	94	74	107	100
All other	1,408	1,356	1,157	966	1,331
Total	4,191	5,121	2,640	2,942	3,648
	Value (1,000 dollars)				
Dom Rep	245,318	333,205	106,984	166,149	201,654
Phil R	169,387	126,538	53,333	102,041	130,587
Brazil	409,986	387,810	88,857	119,044	129,071
Austral	145,778	330,700	53,464	79,983	97,688
Argent	88,906	209,717	41,376	51,985	65,668
Guatmal	95,601	85,031	19,238	56,868	55,391
Peru	15,796	.....	28,612	36,641	43,722
C Rica	37,424	33,440	17,214	26,561	35,312
Rep Saf	61,159	.....	8,816	11,052	30,869
Hondura	39,782	46,317	20,847	26,784	29,703
All other	685,913	588,528	360,150	349,393	291,848
Total	1,995,050	2,141,286	798,890	1,026,501	1,111,564
	Unit value (per short ton)				
Dom Rep	$428.18	$445.78	$295.05	$363.68	$378.33
Phil R	441.73	497.12	262.25	389.62	313.77
Brazil	490.61	362.77	325.15	328.11	362.59
Austral	557.06	375.24	317.05	367.92	381.77
Argent	572.41	471.28	241.92	237.74	297.38
Guatmal	462.81	400.94	317.87	379.87	365.77
Peru	298.18	.....	375.37	405.70	406.37
C Rica	465.46	535.78	303.66	416.39	383.03
Rep Saf	445.15	.....	241.68	233.20	370.52
Hondura	411.17	494.24	281.79	250.14	295.80
All other	487.24	434.17	311.23	361.79	219.19
Average	476.04	418.14	302.61	348.92	304.67

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 11.—BLENDED OR FLAVORED SIRUPS AND SUGARS: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
Canada	17	69	25,132	319,017	394,427
Bahamas	0	0	0	0	2,672
Hg Kong	835	812	487	856	1,125
Fr Germ	137	43	77	96	310
Jamaica	504	375	213	475	370
Yugoslv	71	192	335	286	368
U King	105	35	107	125	202
Belgium	0	1	0	89	1,099
France	103	69	120	72	141
Switzld	93	141	77	118	136
All other	2,970	5,522	2,387	1,226	1,075
Total	4,835	7,259	28,934	322,360	401,925
	Value (1,000 dollars)				
Canada	11	116	3,866	36,169	44,587
Bahamas					500
Hg Kong	336	309	188	316	368
Fr Germ	244	59	76	115	181
Jamaica	150	187	147	252	158
Yugoslv	43	84	146	127	141
U King	84	39	101	98	136
Belgium		(1)		26	136
France	82	89	100	60	96
Switzld	81	153	104	108	82
All other	787	939	796	662	581
Total	1,819	1,976	5,524	37,933	46,965
	Unit value (per 1,000 pounds)				
Canada	$0.68	$1.69	$0.15	$0.11	$0.11
Bahamas					0.19
Hg Kong	0.40	0.38	0.39	0.37	0.33
Fr Germ	1.77	1.39	0.99	1.20	0.58
Jamaica	0.30	0.50	0.69	0.53	0.43
Yugoslv	0.60	0.44	0.44	0.45	0.38
U King	0.80	1.10	0.94	0.78	0.68
Belgium		0.52		0.29	0.12
France	0.80	1.29	0.84	0.82	0.68
Switzld	0.88	1.08	1.37	0.91	0.60
All other	0.27	0.17	0.33	0.54	0.54
Average	0.38	0.27	0.19	0.12	0.12

[1] Less than $500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 12.—BEEF AND VEAL, FRESH, CHILLED, OR FROZEN: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Japan	70,974	93,520	114,066	130,523	170,630
Canada	7,895	13,012	8,596	10,879	19,599
S Arab	2,237	5,051	5,357	3,712	3,595
Kor Rep	499	894	1,063	1,913	2,732
Bahamas	5,453	4,203	3,204	4,212	4,298
China	2,712	1,134	4,407	3,171	3,413
Bermuda	1,902	1,502	1,835	1,769	2,023
Hg Kong	1,597	2,119	1,907	1,631	1,472
Singapr	1,013	1,151	1,038	951	791
Switzld	1,587	881	601	786	712
All other	10,513	14,032	15,820	18,971	9,446
Total	106,383	137,499	157,895	178,517	218,712
	Value (1,000 pounds)				
Japan	131,085	155,839	229,568	251,345	320,519
Canada	14,307	23,780	15,743	19,054	33,051
S Arab	5,225	13,297	13,777	9,508	10,226
Kor Rep	1,507	2,315	2,760	3,765	6,686
Bahamas	8,742	6,794	4,651	5,392	6,432
China	3,707	2,758	6,101	5,206	5,982
Bermuda	4,415	4,071	4,797	4,373	5,320
Hg Kong	4,218	5,508	5,428	4,738	4,314
Singapr	2,852	3,209	3,222	3,059	2,611
Switzld	2,787	3,111	2,547	2,891	2,475
All other	22,442	27,134	30,947	31,653	20,268
Total	201,287	247,816	319,540	340,984	417,884
	Unit value (per pound)				
Japan	$1.85	$1.67	$2.01	$1.93	$1.88
Canada	1.81	1.83	1.83	1.75	1.69
S Arab	2.34	2.63	2.57	2.56	2.84
Kor Rep	3.02	2.59	2.60	1.97	2.45
Bahamas	1.60	1.62	1.45	1.28	1.50
China	1.37	2.43	1.38	1.64	1.75
Bermuda	2.32	2.71	2.61	2.47	2.63
Hg Kong	2.64	2.60	2.85	2.90	2.93
Singapr	2.82	2.79	3.10	3.22	3.30
Switzld	1.76	3.53	4.23	3.68	3.47
All other	2.13	1.93	1.96	1.67	2.15
Average	1.89	1.80	2.02	1.91	1.91

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 13.—BEEF, PREPARED OR PRESERVED (EXCEPT CANNED BEEF): U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–1984

Market	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Japan	5,768	6,413	9,496	6,978	9,465
Canada	2,964	3,015	2,941	3,201	5,989
S Arab	2,494	3,336	4,188	4,848	2,108
N Antil	1,320	1,422	1,466	2,205	2,129
Bahamas	1,386	1,473	1,062	1,436	1,597

TABLE 13.—BEEF, PREPARED OR PRESERVED (EXCEPT CANNED BEEF): U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–1984—Continued

Market	1980	1981	1982	1983	1984
Barbado	283	392	233	231	614
Kor Rep	1,261	1,018	501	480	478
Switzld	273	171	106	239	309
Lw WW I	547	642	578	558	448
Hg Kong	181	264	244	264	580
All other	5,522	6,760	10,328	7,118	5,551
Total	21,999	24,907	31,142	27,557	29,268
	Value (1,000 dollars)				
Japan	12,798	10,559	13,417	12,050	14,142
Canada	5,133	5,380	4,384	4,862	11,445
S Arab	7,177	9,527	9,173	10,213	4,867
N Antil	2,408	3,239	3,046	4,068	4,037
Bahamas	3,790	3,380	2,920	3,814	3,855
Barbado	648	659	713	651	1,843
Kor Rep	1,038	977	1,572	1,274	1,269
Switzld	895	973	551	930	1,261
Lw WW I	1,152	1,555	1,155	1,136	1,106
Hg Kong	331	466	387	543	1,036
All other	11,313	13,711	17,122	13,298	10,450
Total	46,684	50,427	54,440	52,841	55,311
	Unit value (per pound)				
Japan	$2.22	$1.65	$1.41	$1.73	$1.49
Canada	1.73	1.78	1.49	1.52	1.91
S Arab	2.88	2.86	2.19	2.11	2.31
N Antil	1.82	2.28	2.08	1.84	1.90
Bahamas	2.73	2.30	2.75	2.66	2.41
Barbado	2.29	1.68	3.06	2.82	3.00
Kor Rep	0.82	0.96	3.14	2.65	2.66
Switzld	3.28	5.68	5.20	3.89	4.08
Lw WW I	2.10	2.42	2.00	2.04	2.47
Hg Kong	1.83	1.76	1.59	2.06	1.79
All other	2.05	2.03	1.66	1.87	1.88
Average	2.12	2.02	1.75	1.92	1.89

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 14.—CANNED BEEF: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
S Arab	170	877	941	1,142	1,101
Bahamas	381	627	680	446	903
O Pw Af	0	31	66	28	213
Lw WW I	75	58	21	48	118
Cayman	64	60	88	80	150
N Antil	131	124	173	125	181
Japan	122	162	206	71	100
Guinea	14	143	91	27	141
Canada	37	2,324	3,202	0	131
Ghana	177	80	154	115	89
All other	3,226	1,740	1,054	1,410	1,143
Total	4,398	6,226	6,676	3,491	4,269

TABLE 14.—CANNED BEEF: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84—Continued

Market	1980	1981	1982	1983	1984
	Value (1,000 dollars)				
S Arab	215	720	496	651	594
Bahamas	207	250	289	161	402
O Pw Af		53	81	36	168
Lw WW I	142	74	21	48	152
Cayman	86	84	99	81	137
N Antil	135	122	155	106	137
Japan	180	136	216	124	131
Guinea	25	217	104	22	121
Canada	39	1,643	2,281		119
Ghana	216	146	226	149	110
All other	2,176	1,987	1,188	1,797	1,058
Total	3,421	5,432	5,156	3,175	3,130
	Unit value (per pound)				
S Arab	$1.27	$0.82	$0.53	$0.57	$0.54
Bahamas	0.54	0.40	0.43	0.36	0.45
O Pw Af		1.72	1.22	1.26	0.79
Lw WW I	1.88	1.27	0.99	1.00	1.29
Cayman	1.34	1.41	1.12	1.02	0.92
N Antil	1.03	0.98	0.89	0.85	0.76
Japan	1.47	0.84	1.05	1.75	1.32
Guinea	1.79	1.52	1.15	0.83	0.86
Canada	1.06	0.71	0.71		0.91
Ghana	1.22	1.83	1.47	1.30	1.24
All other	0.67	1.14	1.13	1.27	0.93
Total	0.78	0.87	0.77	0.91	0.73

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 15.—SUGAR: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 short tons)				
Mexico	229	316	14	56	89
Jamaica	4	14	7	22	47
Canada	17	13	6	24	35
Egypt	26	25	1	27	43
Lw WW I	4	5	4	5	12
Chile	76	21	1	0	21
Bahamas	5	4	4	3	12
N Antil	6	6	6	5	11
Peru	53	135	1	15	16
Haiti	1	8	1	10	12
All other	226	491	20	57	29
Total	645	1,038	62	221	327
	Value (1,000 dollars)				
Mexico	137,070	154,142	4,528	13,322	18,890
Jamaica	3,102	5,448	2,137	4,426	9,751
Canada	5,409	4,427	2,213	6,215	9,349
Egypt	8,495	13,789	1	4,945	5,762
Lw WW I	2,078	2,998	1,566	1,470	4,503

TABLE 15.—SUGAR: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84—Continued

Market	1980	1981	1982	1983	1984
Chile	40,430	14,373	3	1	4,014
Bahamas	2,209	2,395	1,847	918	3,663
N Antil	3,280	4,048	2,806	2,627	3,317
Peru	17,624	83,396	4	2,547	2,768
Haiti	13	2,265	6	2,427	1,829
All other	108,625	218,991	5,468	12,912	7,885
Total	328,335	506,272	20,579	51,810	71,731
	Unit value (per short ton)				
Mexico	$599.77	$487.84	$315.48	$240.04	$212.39
Jamaica	866.32	379.33	287.11	204.04	209.17
Canada	311.69	350.94	356.91	261.04	268.44
Egypt	328.46	547.99	1,075.00	186.42	134.54
Lw WW I	565.63	623.39	389.69	285.83	373.70
Chile	535.42	689.77	272.73	.....	191.65
Bahamas	451.25	553.80	429.96	324.29	311.71
N Antil	578.34	675.98	484.17	551.89	294.70
Peru	331.43	617.23	1,314.67	172.72	168.00
Haiti	348.89	285.77	413.47	243.97	148.72
All other	479.74	445.72	269.04	228.39	273.39
Average	509.26	487.54	329.48	233.95	219.48

[1] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

H.R. 2166

To extend for 5 years the existing temporary duty-free treatment of double-headed latch needles

See statement of National Association of Hosiery Manufacturers, Sid Smith, under H.R. 1547

U.S. International Trade Commission

Section-by-section analysis

This legislation H.R. 2166 [1] would extend the existing temporary duty suspension for double-headed latch needles (provided for in Tariff Schedules of the United States (TSUS) item 670.58) from column 1 countries,[2] beyond the current expiration date of June 30, 1985 to June 30, 1990. Section 2 would make the extension of the duty suspension effective on or after July 1, 1985.

Background

Description and uses.—Double-headed latch needles, or "links" needles, are used in the manufacture of machine-knitted fabric. These needles each consist of a shank with a hook at each end. They can be readily distinguished from other hooked machine needles by the freely swinging latches attached to the shanks which close the hooks. Variations within this configuration are necessary to accommodate differences in the machinery, yarn, or thread employed, or in the type of fabric desired. These variations can occur in numerous critical characteristics, such as the shape of the hooks or the length and straightness of the shaft.

Links needles are used in three types of knitting machines: flat bed machines for making sweaters, collars, and cuffs; certain large diameter (25 inches to 30 inches) circular machines, also used in making sweaters; and certain small diameter (2 inches to 4 inches) circular machines for making socks. The last category accounts for aproximately 75 percent of links needle consumption in the United States.

Links needles in circular machines are housed in slots and operated by cams. When the needle reaches up (or across in the case of flat bed machines), the latch is in the open position; the hook engages the yarn and pulls down a loop as the needle descends. The needle then rises through the loop and engages the yarn again. As it pulls this new loop down, the old loop pushes the latch closed, slides over the latch, and comes off the hook as the needle continues its descent. When the needle rises again the loop pushes the latch open and the process is repeated, creating a chain of loops.

Needles used in modern knitting machines can perform several operations per second. This can result in a build-up of heat in the needles, which can deform or even melt synthetic fibers. Reduction of heat build-up, therefore, is a prime concern, as is the avoidance of friction wear. The needle must not bend, and the latch must move freely through tens of thousands of movements. Needles must be uniform in order to produce a uniform product. This uniformity must be accomplished by component tolerances which cannot exceed 0.010 inch.

The manufacturing process for needles generally includes a series of up to thirty hand and machine operations, including pressing, swaging, tempering, polishing,

---

[1] H.R. 2166 was introduced by the sponsor of H.R. 1548, covering the same product, to correct technical deficiencies in the latter bill.

[2] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

and straightening. Production machinery is, for the most part, not interchangeable for different kinds of needles and generally requires extensive retooling for each new type of production run.

Prior investigations

In the Commission's investigation No. TA-201-38 (44 FR 9635 of Feb. 14, 1979), it was determined that the subject needles and various other needles were not being imported in such increased quantities as to cause of threaten serious injury to the domestic producers of like or directly competitive articles.

Comparison with present law

Tariff treatment under the TSUS.—Double-headed latch needles are classified in TSUS item 670.58 as latch needles for knitting machines. The column 1 rate of duty applicable to imports under this tariff item is 16 cents per thousand plus 11.7 percent ad valorem.

The staged tariff reductions for this tariff item, from the Tokyo round of the Multilateral Trade Negotiations (MTN), are as follows:

[Cents per thousands; percent ad valorem]

Item	January 1—		
	1985	1986	1987
670.58	16¢ + 11.7%	16¢ + 11.7%	10%

The column 2 rate of duty [3] is $2.00 per 1,000 plus 60 percent ad valorem. The least developed developing countries (LDDC) rate provided under this item is 10 percent ad valorem.[4]

Articles classified in TSUS item 670.58 are eligible for duty-free entry under the Generalized System of Preferences (GSP) [5] when imported from designated beneficiary countries. During 1984 such imports totaled $2.7 million. Links needles constituted only a negligible share of the total. In addition, these articles, if from designated beneficiary countries, are eligible for duty-free entry under the Caribbean Basin Economic Recovery Act (CBERA).[6]

Tariff treatment under the proposed Harmonized System (HS)

The subject articles would be classified in the following HS provisions, shown along with the proposed column 1-general duty rate:

[3] The rate of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[4] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[5] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[6] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

Heading	Article description (abridged)	Rate of duty
8448	Parts and accessories suitable for use solely or principally with knitting machines of heading 8447:	
8448.51	Sinkers, needles, and other articles used in forming stiches:	
	Needles for knitting machines:	
8448.51.10	Latch needles	50¢/1,000 + 15 percent ad valorem.

Structure of the domestic industry

There has been no U.S. production of latch needles since 1980, when the Torrington Co. divested itself of its needle operations. By May of that year, Torrington had converted its Walhalla, South Carolina, plant, the only domestic source of latch needles, to ball-bearing manufacture. At approximately the same time, Exeltor, Inc. of Canada acquired Torrington's Needle Division. This division included Torrington's only other source of latch needles, a plant in Bedford, Quebec. The needles imported from the Bedford facility are marketed by Exeltor Corp. of Greensboro, North Carolina.

U.S. imports, U.S. exports and apparent consumption

Since there is no U.S. production and thus no exports, imports are the sole source of U.S. supply and represent total apparent consumption of double-headed latch needles. There were no imports of double-latch needles from LDDC sources. Imports from countries subject to column 2 rates of duty equaled $56,226 during 1984.

KNITTING MACHINE LATCH NEEDLES (TSUS ITEM 670.58): U.S. IMPORTS FOR CONSUMPTION, 1980 THROUGH JANUARY–FEBRUARY 1985

Year	Quantity (million units)	Value (million dollars)
1980	128	19.8
1981	148	20.0
1982	125	16.4
1983	134	18.0
1984	161	20.7
January–February 1985	19	2.6

Source: Compiled from official statistics of the U.S. Department of Commerce.

In 1984, the leading sources of U.S. imports of links needles were generally the leaders in world production of latch needles. West Germany and Japan account for about 69 percent of U.S. imports. The largest single U.S. importer is believed to be Grosz-Beckert USA of Charlotte, North Carolina. This firm is the U.S. subsidiary of a West German company, which is the largest needle manufacturer in the world. As noted, Exeltor continues to import from Torrington's former plant in Canada.

Effect on revenue

The average annual customs revenue loss that would result from the continuation of the duty suspension as to imported double-headed latch needles would be approximately $2.2 million. This estimate is based on 1984 import levels and on the staged reductions of the tariff rates scheduled for 1985–90. Estimated annual customs revenue losses during 1985–90 are as follows:

Double headed latch needles

Year:	*(Millions)*
1985	$2.4
1986	2.2
1987	2.1
1988	2.1
1989	2.1
1990	2.1

Technical comments

If the legislation is enacted after June 30, 1985, a provision permitting importers to request the reliquidation of entries made after that date and before the extension should be added.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 2166, a bill "To extend for 5 years the existing temporary duty-free treatment of double-headed latch needles."

The Department of Commerce has no objection to enactment of H.R. 2166.

H.R. 2166 would extend through June 30, 1990, the current suspension of the column 1 (MFN) duty on imports of doubled-headed latch needles. The column 2 (statutory) duty would not be affected by this legislation.

In the absence of this duty suspension, double-headed latch needles would be imported under Tariff Schedules of the United States (TSUS) item 670.58 at a MFN duty of 16 cents per 1,000 plus 11.7 percent ad valorem. This duty will be reduced in stages to 10 percent ad valorem by January 1, 1987, as a result of concessions made in the Tokyo Round of trade negotiations. Double-headed latch needles are eligible for duty-free treatment under the U.S. Generalized System of Preferences.

There are no domestic manufacturers of double-headed latch needles in the United States. Continued suspension of the duty on double-headed latch needles will assist U.S. hosiery manufacturers in their efforts to increase their competitiveness.

We are unable to calculate the revenue effect of enactment of H.R. 2166 since imports of double-headed latch needles are not reported separately in the U.S. trade statistics. Enactment of H.R 2166 would have no effect on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to Congress from the standpoint of the Administration's program.

NEEDLE INDUSTRIES (U.S.A.) INC.,
Charlotte, NC, June 21, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: May we refer you to H.R. 2166 which would extend for 5 years the current H.R. 1548 duty-free treatment of double-headed latch needles.

As a British company engaged in manufacturing and importing these products into the United States, we are particularly concerned at the prospect of duties being reimposed with the further adverse effect on the plight of the textile industry in this country.

Double-headed latch needles and parts are essential and critical items for manufacturers in the half hose industry. All of these goods are imported due to there being no manufacturer of these particular needles and parts in the United States.

Thanking you in anticipation of your courtesy and consideration in this matter.

Yours sincerely,

TOVE L. MITCHELL,
Credit Control Manager.

H.R. 2186

Relating to the tariff classifications of certain silicone resins and materials

U.S. INTERNATIONAL TRADE COMMISSION

Section-by-section analysis

H.R. 2186,[1] if enacted, would amend the Tariff Schedules of the United States (TSUS) to impose a single rate of duty on silicones in all forms. Specifically, section 1(a)(1)(A) would amend headnote 2 to part 4A of schedule 4 of the TSUS, defining "synthetic plastics materials," to classify together silicone fluids, resins, elastomers, and other silicone products whether or not they are in solid form in the finished articles. The existing headnote language would largely be incorporated in the revised and subdivided headnote; while paragraphs 2(a)(i) and 2(b) would essentially restate that language with some minor changes, subparagraph 2(a)(ii) would contain the new provision concerning silicones. In section 1(a)(2), the legislation would also amend headnote 2 of part 4B of schedule 4 of the TSUS by inserting the following paragraph: "(c) For the purpose of the tariff schedules, the term 'rubber' does not include silicones."

Section 1(a)(1)(B) would insert a new tariff item (item 445.55) covering silicone resins and materials. The column 1 rate of duty would under section 1(b) be subject to staged reductions to 3.9 percent ad valorem in 1986 and 3.7 percent ad valorem in 1987.[2] According to section 1(c). whenever the column 1 duty rate for item 445.55 would be reduced to the same level as the corresponding LDDC rate of duty,[3] or to a lower level, the rate of duty in the LDDC column would be deleted. Section 2 would make the provisions of the legislation effective upon enactment.

If the legislation were enacted, silicone rubber would no longer be classified in TSUS item 446.15 (with a column 1 duty rate of 0.8 percent ad valorem and an LDDC rate of free), which provides for synthetic rubber. Nor would the duty rates proposed for item 445.55 correspond to those for item 445.56, where some of the subject articles are now classified but which would no longer occur after enactment of the new law.

Background

Description and uses.--Silicones are a unique family of polymers, containing alternating silicon and oxygen atoms in the polymer chain with various organic substitutes attached to the silicon atoms. They have a structure similar to quartz rather than the carbon-to-carbon linkage characteristic of most organic polmers. Silicones are dervied from siloxanes obtained from silane monomers through hydrolysis. One commercial production method obtains these monomers from quartz (silicon dioxide or SiO_2); an alternative method involves the reaction of Grignard reagents with silicon tetrachloride.

The type of organic substituent attached to the silicon atoms and the extent of cross-linkage between polymer molecules determine whether the silicone will be a fluid, an elastomer (synthetic rubber), or a resin. Silicone fluids are clear liquids of varying viscosities used as antifoaming agents, release or parting agents, hydraulic

---

[1] A companion bill, S. 579, 99th Congress, was referred to the Senate Finance Committee.

[2] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the LDDC rate of duty column.

[3] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

or heat-transfer fluids, and permanent water-repelling agents for leather, fabrics, and masonry. Silicone elastomers are essentially high molecular weight fluids that must be crosslinked, either at room temperature or with heat, to provide elastomeric properties. These elastomers offer superior resistance to weathering (to water and oxidation); they also perform satisfactorily for extended periods at temperatures ranging from 150°F. to 600°F. and retain both their flexibility at the lower end of this range and their stability at the high end. Silicone elastomers have recently been used in cosmetic or prosthetic implants.

Silicone resins are available in varying viscosities and as solvent solutions as well as in solid form. These resins are used in both flexible and rigid applications. Flexible resins have been used as electrical insulation for coating and impregnating varnishes and as protective paint films. The most important uses for rigid silicone resins are in electrical varnishes, glass tape, and coatings (for articles such as circuit boards). Silicone adhesives may be used in substantially the same applications as other types of adhesives; however, because of their resistance to weather and chemicals, they are generally used where this characteristic is desired.

In general, silicones possess good electrical properties and, as mentioned above, offer superior resistance to high temperatures and weathering. Silicones also possess a high degree of chemical inertness, are nontoxic, and are easy to process.

Fluids are the most important silicone products, accounting for nearly 54 percent of domestic consumption in 1982; elastomers represented about 41 percent of the silicone market that year. Plastics typically account for about 5 percent of domestic consumption of silicones.

According to industry sources, there is no difference between imported and domestic silicone products in terms of either quality or performance characteristics.

Purpose.—No statement concerning the legislation appeared in the Congressional Record. However, the sponsor of the companion legislation provided the following explanation of its intent: [4]

"Today, the U.S. duty on silicones ranges from 0 to 8.6 percent ad valorem, and silicones are classified under one of nine TSUS categories. The tariff schedules, however, were established before silicones were commercialized. The result has been that particular silicones have been classified on an ad hoc basis, leading to wide disparities in duty rates for silicones of substantially the same chemical composition.

"The rest of the industrial world treats silicones as a single product grouping in its tariff schedules; this legislation, then, would bring U.S. Customs practice in line with the customs practices of our trading partners. The silicone tariff rates of our major trading partners are much higher than ours, with rates of more than 10 percent. This bill, however, would not raise U.S. tariffs. Rather, the legislation is trade neutral."

SILICONE RESINS AND MATERIALS: U.S. RATES OF DUTY, BY TSUS ITEM

[Cents per pound; percent ad valorem]

TSUS item [1]	Article description (abridged)	Pre-MTN rate [2]	Col. 1 duty rate		LDDC rate	Col. 2 rate
			1980	1985		
406.09	Other organo-silicon compounds, benzenoid.	1.7¢+12.5%	13.5%	13.5	.....	7¢+68.5%
409.18A	Other thermosetting resins, benzenoid.	1.4¢+9% [3]	0.7¢+9%	6.9%	5.8%	7¢+45%
429.95A	Oragano-silicon com-compounds.	5% [3]	4.8%	4%	3.7%	25%
445.56A	Silicone resins	1.3¢+10% [3]	1.2¢+9.7%	1.1¢+8.3%	1¢+7.7%	33.5%
446.15A	Silicone rubber	3% [3]	2.6%	0.8%	Free	33.5%
474.62A	Putty and similar caulking or glazing products, other.	5%	4.8%	4%	3.7%	20%
494.60A	Cements, not specially provided for.	2.5%	2.5%	2.2%	2.1%	20%

[1] The designation "A" indicates that the articles classified in that item are currently eligible for duty-free entry under the Generalized System of Preferences when imported from any designated beneficiary country.
[2] Rate effective prior to July 1, 1980, except items 406.09 and 446.15, for which the rate was effective prior to Jan. 1, 1980.
[3] Rate from which staged.

[4] Senator Daniel Moynihan, D-N.Y., Congressional Record (Senate), Mar. 5, 1985, p. S2508.

Comparison with present law

Tariff treatment under the TSUS.—The tabulation on page 5 shows the rates of duty applicable to imports of silicone resins and other materials from column 1 countries prior to the Tokyo round of Multilateral Trade Negotiations (MTN) in 1979 (in some instances, prior to the conversion of specific rates to their ad valorem equivalents), staged reductions in the column 1 rates, column 2 duty, rates.[5] And LDDC rates. As indicated by the designation "A" in the tabulation, many of these articles are eligible for duty-free entry under the Generalized System of Preferences (GSP).[6] All of the articles covered by these tariff items are eligible for duty-free entry under the Caribbean Basin Economic Recovery Act (CBERA).[7]

Tariff treatment under the proposed Harmonized System.—Under the Trade Policy Staff Committee's September 1984 draft conversion of the TSUS to the Harmonized System (HS) format, virtually all silicones in primary forms would be included under one HS heading and its three subheadings. These silicones would be classified under commodity code number 3910.00, as shown in the following relevant portion of the converted schedule:

Heading	Article description	Proposed rates of duty [1]	
		Col. 1	Col. 2
3910.00	Silicones in primary forms:		
3910.00.10	Elastomeric	Free	20%.
	Other:		
3910.00.20	Dimethylsiloxane fluid	3.7%	25%
3910.00.50	Other	2.2¢/kg+7.7%	33.5%.

[1] Cents per kilogram; percent ad valorem.

The column 1 general rate of duty, proposed to be effective upon implementation of the HS, for silicone resins is 2.2 cents per kilogram plus 7.7 percent ad valorem; the proposed duty on silicone fluids is 3.7 percent ad valorem; and silicone elastomers would be free of duty.

Structure of the domestic industry

The markets for silicone fluids, elastomers, and resins, the products of chief significance in the draft legislation are each dominated by three producers (finished articles such as sealants and adhesives are not within the scope of this report). Two firms are major producers in each product group. The following tabulation from the 1984 Directory of Chemical Producers, United States, SRI International, lists the following current U.S. producers of silicone products, by plant location and by product (F=fluids, E=eleastomers, R=resins).

Company	Plant location	Product(s)
The Dexter Corp.—Midland Division	Cleveland, OH	R
	Hayward, CA	R
	Rocky Hill, CT	R
	Waukegan, IL	R

[5] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[6] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[7] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

Company	Plant location	Product(s)
Dow Corning Corp.	Carrollton, KY	F
	Midland, MI	F, E, R
	Elizabethtown, KY	E
	Trumbull, CT	E
General Electric Co.—Silicone Products Business Division.	Waterford, NY	F, E, R
McGhan NuSil Corp.	Carpinteria, CA	F, E, R
Rhone-Poulenc Inc.—Chemical Division	Lakewood, NJ	E
Rohm and Haas Company	Lincoln, RI	R
SWS Silicones Corp.	Adrian, MI	F, E
Union Carbide Corp.	Sisterville, WV	F, R
	South Charleston, WV	F, R

Domestic production

U.S. production of silicone fluids, silicone elastomers, and silicone resins during 1979–83 is shown in the tabulation below:[8]

Item	1979	1980	1981	1982	1983
	Quantity (1,000 pounds)				
Fluids	219,635	230,259	252,275	135,758	154,961
Elastomers	89,335	(1)	106,118	104,103	120,696
Resins	19,583	12,381	17,328	12,675	16,346
Total	328,553	(1)	375,721	252,536	292,003
	Value (1,000 dollars) [2]				
Fluids	430,485	531,898	562,573	320,389	337,815
Elastomers	310,886	(1)	(1)	178,016	368,123
Resins	68,932	52,867	60,475	62,488	83,365
Total	810,303	(1)	(1)	560,893	789,303

[1] Not available.
[2] The value of production is estimated using the unit value of sales.

Silicone fluids represented about 67 percent of the total volume of silicone production in 1979 and 1981 before declining to about 64 percent in 1982 and about 53 percent in 1983. Silicone elastomers increased to over 41 percent of the total silicone production in both 1982 and 1983, from the level of 27 to 28 percent of the annual totals in 1979 and 1981. Silicone resins annually accounted for 5 to 6 percent of the total volume of silicone production during the four years for which complete data are available.

U.S. imports

In 1984, imports of silicone resins under item 445.56 amounted to 840,000 pounds valued at $2.4 million. The primary sources of these imports were Japan and West Germany. In 1984 U.S. imports of silicone elastomers under TSUS item 446.15, chiefly from France and West Germany, amounted to 5.7 million pounds, valued at $10.0 million. Imports of organo-silicon compounds under 429.95 amounted to 7.4 million pounds, valued at $10.8 million, and came principally from West Germany.[9] There were no known imports of the silicone in 1984 from column 2 sources.

U.S. imports of silicone products by type and total during 1979–84 are shown in the following tabulation: [10]

[8] Source: U.S. International Trade Commission, *synthetic Organic Chemicals, Production and Sales*, various years.
[9] The level of imports, if any, of silicone products under "basket" items 406.09, 409.18, 474.62, and 494.60 is unknown.
[10] Source: Official statistics of the U.S. Department of Commerce.

Item	1979	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)					
Organo-silicon compounds	1,900	1,416	1,757	2,636	3,081	7,375
Silicone elastomers	(1)	(1)	1,668	2,892	5,490	5,658
Silicone resins	213	329	349	701	1,607	840
Total	(1)	(1)	3,774	6,229	10,178	13,873
	Value (1,000 dollars)					
Organo-silicon compounds	3,516	2,828	3,880	4,799	6,197	10,483
Silicone elastomers	(1)	(1)	3,178	3,876	6,734	10,051
Silicone resins	940	1,499	1,029	1,150	3,083	2,374
Total	(1)	(1)	8,087	9,816	16,014	23,268

[1] Not available.

In 1981 and 1982, silicone elastomers annually accounted for about 45 percent of total silicone imports by quantity; in 1983, the share of total silicone imports represented by elastomers climbed to about 54 percent; it then declined to about 41 percent of total silicone imports in 1984. Imports of organo-silicone compounds represented between 42 and 47 percent of total silicone imports in 1981 and 1982, declined to 30 percent in 1983, and then climbed to 53 percent of the total in 1984. During 1981–83, silicone resins represented an increasing share of total silicone imports, climbing from 9 percent in 1981 to nearly 16 percent in 1983, before declining to 6 percent in 1984.

The leading importers of these products have included the major domestic producers, various large chemical firms, and several Japanese trading companies.

U.S. exports

U.S. exports of silicone products amounted to an estimated 62.1 million pounds, valued at $133.7 million in 1984; these figures represent an increase of 19.7 percent by quantity and 54.2 percent of value from 1979 exports. The following tabulation shows U.S. exports of silicones during 1979–84.[11]

Item	1979	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)					
Organo-silicon compounds	5,316	6,772	11,760	6,613	9,851	7,953
Silicone elastomers	12,404	15,498	17,209	14,879	13,547	14,193
Silicone resins	34,151	34,517	33,833	33,995	37,691	39,955
Total	51,871	56,787	62,802	55,487	61,089	62,101
	Value (1,000 dollars)					
Organo-silicon compounds	8,803	11,592	18,068	13,221	14,336	14,567
Silicone elastomers	24,311	37,012	41,452	40,194	32,682	37,388
Silicone resins	53,620	62,538	67,864	69,839	77,105	81,727
Total	86,734	111,142	127,384	123,254	124,123	133,682

On a volume basis, exports of silicone resins during 1979–84 ranged from 54 percent of total silicone exports in 1981 to 66 percent in 1979. Silicone elastomer exports ranged from 22 percent of the total in 1983 to 27 percent each year from 1980–82. Exports of organo-silicon compounds varied from 9 percent of the total in 1980 to 19 percent of the total in 1983, and amounted to about 13 percent in 1984. The major exporters of silicone products are the domestic producers named above.

Apparent U.S. consumption

Apparent U.S. consumption of all silicones during 1979–83 (production data are not available for 1984) is shown in the following tabulation: [12]

[11] Source: Official statistics of the U.S. Department of Commerce.

[12] Source: Production, U.S. International Trade Commission; imports and exports, compiled from official statistics of the U.S. Department of Commerce.

Year	Production	Imports	Exports	Apparent consumption	Ratio (percent of imports to consumption
	Quality (1,000 pounds)				
1979	328,553	(1)	51,871	(1)	
1980	(1)	(1)	56,787	(1)	
1981	375,721	3,774	62,802	316,693	1.2
1982	252,536	6,229	55,487	203,278	3.1
1983	292,003	13,873	62,101	243,775	5.7
	Value (1,000 dollars)				
1979	810,303	(1)	86,734	(1)	
1980	(1)	(1)	111,142	(1)	
1981	(1)	8,087	127,384	(1)	
1982	560,893	9,816	123,254	447,455	2.2
1983	789,303	23,268	133,682	678,889	3.4

[1] Data for silicone elastomers are not separately available.

Potential annual gain of revenue

Based on imports in 1984, had the column 1 duty rate proposed for new item 445.55 been in effect, the gain in customs revenues attributable to materials now classified in TSUS item 429.95 would be approximately $80,629. As for silicone resins (TSUS item 445.56), the customs revenue loss would be about $104,476; for silicone elastomers (TSUS item 446.15), the customs revenue gain would be approximately $368,932. Thus, the overall revenue gain would be about $345,085.

It is not possible to estimate either the potential loss in customs revenues resulting from the reclassification of silicone compounds from TSUS items 406.09 and 409.18 to new item 445.55 or the potential revenue gain from the reclassification of articles from items 474.62 and 494.60. These are residual or " basket" tariff provisions, and imports of silicone products cannot be separately determined. Total imports under these four TSUS items in 1984 were 104,874 pounds ($316,755), 19,827,907 pounds ($24,254,268), 9,885,278 pounds ($14,905,934), and 32,321,739 pounds ($35,301,615), respectively.

Technical comments

Several problems should be noted in regard to the proposed legislation. First, the article description in new item 445.55 should be indented to reflect its subordinate status in relation to the exisiting superior heading. Second, the proposed new headnote paragraph is ambiguous and may pose problems for the Customs Service and for persons trying to interpret trade data, since its appears to reclassify materials and articles now provided for in other parts of schedule 4. That is, by including "silicones in all forms", the headnote covers materials which are not now classifiable in this subpart as synthetic plastics, since they are fluids or are so far advanced as to be considered articles. For example, the headnote covers silicone adhesives, which are provided for at a different rate of duty in TSUS item 494.60. In addition, the parenthetical listing in paragraph (a)(ii) includes elastomers, which if sufficiently flexible are now classified as synthetic rubber rather than as plastics.

Nor is it clear how the column 1 duty rate in new item 445.55 was derived and the staged rate reductions chosen. The language of section 1(b) should be modified by inserting "1.1¢ per pound +" before each duty rate included. As drafted, the specific portion of the column 1 rate would drop out in 1986 but would remain in the LDDC rate.

Moreover, since the provisions of part 1 of schedule 4, covering benzenoid chemicals, have priority for classification purposes over the remainder of schedule 4, the legislation as drafted would not reclassify those silicone compounds now classified in part 1. A change in existing headnote 1 to subpart A, part 4 of schedule would be necessary to permit the benzenoid compounds to be classified with the other silicone resins and materials.

Finally, since the product coverage of present item 445.56 is being changed, the item should be renumbered as 445.58.

Thus, it is suggested that the proposed legislation be amended as follows:

(1) by inserting a new subparagraph (A) to read—"(A) by inserting the words 'other than silicones' after 'materials' and by deleting 'C' in headnote 1;." and by renumbering the following subparagraphs appropriately;

(2) by underscoring the words *"synthetic plastics materials"* in revised headnote 2, and by changing paragraph (a)(ii) of the revised headnote to read—"(ii) includes silicones whether or not such materials are solid in the finished articles.";

(3) by deleting "(i) and (ii)" from line 1 of paragraph (b) of the revised headnote, and by replacing the commas after "methacrylic acid" and "polyvinylidene chloride resins" with semicolons;

(4) in line 18 of 2(b), by placing a comma after "polyethylene";

(5) in line 19 of 2(b), by changing "silixanes" to "siloxanes";

(6) in line 20 of 2(b), by changing "alyl" to "allyl";

(7) by changing paragraph (1)(C) (redesignated as described above) to read—

"(C) by inserting after item 445.54 the following new item, with the article description at the first level of indentation:"

and by changing the article description in proposed item 445.55 to read "Silicone resins,";

(8) by deleting the word "and" after new tariff item 445.55; and

(9) by inserting a new subparagraph (1)(D) in order to redesignate item 445.56—

"(D) by redesignating item 445.56 as 445.60; and".

The organo-silicon compounds now classified in item 406.09, as discussed above, would be reclassified as synthetic plastics materials only if they meet the definition in headnote 2, as revised, and if headnote 1 to subpart 4A is revised.

GATT comments

To the extent that MTN rates of duty are increased above the bound duty rates for any of the affected articles, it should be noted that enactment of the legislation could be viewed as a violation of U.S. obligations to maintain those rates under Article II. Thus, there may be claims for compensation from or retaliatory withdrawals of beneficial concessions by our trading partners.

Statement on Behalf of General Electric Co., Silicones Products Division, and Dow Corning Corp., Submitted by Freeman, Wasserman & Schneider

I. INTRODUCTION AND SUMMARY

This memorandum is submitted on behalf of General Electric Company and Dow Corning Corporation in support of H.R. 2186.[1] Union Carbide Corporation, the other major domestic producer of silicones, also supports the legislation. This legislation, if enacted, will remove the current ambiguity in classifying certain basic forms of silicones and assures that silicone resins, fluids, elastomers, and copolymers are classified under Tariff Schedules item 445.56 as "synthetic plastics materials". The legislation eliminates the current fragmentation in the classification of various primary forms of silicones, simplifies the collection and reporting of trade data and has minimal effect on revenue.

II. BACKGROUND

Silicones are not specifically named as tariff items. Certain silicones, however, fall within item 445.56 as "Synthetic plastics materials: Other" since they are covered by the definition of, and are specifically named as an example of, "synthetic plastics materials" in headnote 2 of Subpart A, Part 4 of Schedule 4 of the Tariff Schedules.[2]

---

[1] H.R. 2186 is identical to S. 579 which was introduced into the Senate on February 25, 1985 and which has been referred to the Senate Committee on Finance.

[2] Silicones are a large group of substituted siloxane polymers possessing a repeating skeleton structure of alternating silicon and oxygen atoms. (Siloxanes are compounds analogous to straight chain hydrocarbons but consisting of a skeletal backbone of silicon atoms single bonded to oxygen atoms so that each silicon atom is combined with four atoms other than silicon at least two of which are oxygen atoms.) Various organic radicals are attached to the silicon atoms. Silicones can be structurally represented as:

Continued

Thermosetting synthetic silicone resins are specifically provided for under Statistical Annotation 445.5660 of the Tariff Schedules.[3]

Certain other silicones, primarily elastomeric forms, have been misclassified under the "rubber" provisions of Subpart B, Part 4, Schedule 4 of the Tariff Schedules. Recently adopted statistical annotations mistakenly provide for these silicones as "synthetic rubbers" under items 446.1533 and 446.1580. While without effect of law, the statistical provisions appear to give the imprimatur of administrative approval to the mistaken practice. To be rubber a substance must be in certain specified crude forms and must be capable of cross-linking by vulcanization with sulfur or other means and thereafter meet specific extensibility tests after cross-linking. Many silicones can be cross-linked by chemical means other than vulcanization with sulfur and meet the "stretch and return" tests. Despite meeting this one test, silicones are nevertheless not "rubber." It was never the intent of Congress that silicones be treated as "synethetic rubber." The adoption of Statistical Annotations 446.1533 and 446.1580 in Subpart B of Part 4 of Schedule 4 in January 1981 was clearly erroneous and contrary to law in that it contravenes the legal requirement that statistical annotation may not expand the scope of the legal text. See, General Statistical Headnote 2(c) which provides that "statistical annotations are subordinate to the provisions of the legal text and cannot change their scope." [4]

III. DISCUSSION

H.R. 2186 is identical to S. 579. The U.S. International Trade Commission ("Commission") has analyzed S. 579; its comments on S. 579 are equally applicable to H.R. 2186. (A copy of the Commission's comments are attached for your convenience.) Our clients support the Commission's analysis of S. 579 and support the minor changes in language that effectuate the stated technical objections.

The Commission correctly recognizes that silicones are a "family of polymers, containing alternating silicone and oxygen atoms in the polymer chain with various organic substitutes attached to the silicone atoms." [5] The Commission further recognizes that silicones are being classified under a variety of tariff provisions and that silicones should be classified under a single tariff provision.

Our clients agree with, and support, the technical changes to consolidate the tariff classification of silicones under a single tariff item. The elimination of the current, fragmented classification of silicone resins, fluids, elastomers and copolymers would simplify the task of collecting and reporting trade statistics, and provide the industry with meaningful trade data.

Further, it would also harmonize the United States tariff treatment of silicones with the treatment of these products by our principal trading partners. Enacting H.R. 2186 with the Commission's recommendations would, in addition to removing any ambiguity surrounding the present United States tariff treatment of silicone resins, harmonize the United States tariff treatment of silicones with that of the

---

The symbol "R" represents an organic radical. All silicones are resins as defined in the Tariff Schedules and differ only in the character of the "R" groups and the amount of branching and length of the silicon-oxygen skeleton. The amount of cross-linking between the linear silicon-oxygen chains and the length of the chain determines the physical properties of the silicone, i.e., whether it will be fluid or solid. The more extensive the cross-linking the greater the rigidity. However, all silicones belong to the same chemical family. There is no chemical or commercial basis for distinguishing between particular polymers in primary or other form.

[3] For tariff purposes, a thermosetting resin is defined in Headnote 2 of Subpart A Statistical Headnotes, Part 4, Schedule 4 of the Tariff Schedules, as:

". . . those materials which in their final state as finished articles are substantially infusible. Thermosetting resins are often liquids at some stage in their manufacturing or processing, and are cured by heat, catalysis, or other chemical means. After being fully cured, thermosets cannot be resoftened by heat."

[4] The proper tariff classification of silicones is discussed in the attached memoranda to the Office of the United States Trade Representative and the International Trade Commission concerning the tariff treatment of silicones in connection with the Conversion of the Tariff Schedules of the Unites States Annotated to the Nomenclature Structure of the Harmonized System.

[5] Memorandum to the Committee on Finance of the United States Senate on S. 579, 99th Congress, a Bill Relating to the Tariff Classifications of Certain Silicones Resins and Materials, dated May 23, 1985 at 2 (hereinafter "TTC Memorandum").

European Community under the Common Custom Tariff ("CCT").[6] Silicone elastomers are not classifiable in the CCT as synthetic rubber.[7]

The technical changes proposed by the Commission intend to have the legislation embrace silicones in primary form and exclude finished products. Thus, our clients agree that proposed Headnote 2(a)(ii) of Subpart A, part 4 of Schedule 4 read as follows: "includes silicones in all forms (including fluids, resins, elastomers and copolymers) whether or not such materials are solid in the finished articles." Our clients prefer that the language of proposed item 445.55 read "Silicones" rather than "Silicone resins and materials".

Our clients believe that the effect of H.R. 2186 would be revenue neutral. As written, the proposed legislation provides for the assessment of duty on silicone resins and materials classified under proposed Tariff Schedules item 445.55 at the compound rate of duty of 1.1¢ per pound plus 4.2% ad valorem. Revenue neutrality is assured by the elimination of the specific rate of duty from the proposed compound rate. Thus, the proposed rate of duty for imports in 1985 is 4.2% ad valorem, in 1986 3.9% ad valorem, and 3.7% ad valorem in 1987. The Commission estimates a small revenue gain.[8] However, there can be no precise estimate of the gain (or loss) of revenue attributable to this legislation because compounds other than silicones are classified under Tariff Schedules items 409.09, 409.18 and 429.95.[9] Further, the small loss in revenue by reclassifying benzenoid silicones from Part 1 to Part 4 of Schedule 4 would offset any gain in revenue by reclassifying silicones classifiable under item 429.95. It is estimated that any revenue gain (or loss) would be minimal and certainly less than the Commission's estimate which is based on the bill as written. In any event, in light of the vast dollar volume of international trade in chemicals, any revenue gain (or loss) would be insignificant.

The domestic industry believes that importers of silicone resins, fluids, elastomers and copolymers have been obtaining lower tariff rates than required by law. The import statistics clearly reflect the basis of the domestic industry's belief about the increased imports of "silicone rubbers". The following table reflects the significant increases in importations of silicones:

	Silicone synthetic plastics materials (TSUSA item 445.5660)		Silicone "synthetic rubbers" (TSUSA items 446.1533 and 446.1580)	
	Quantity	Value	Quantity	Value
1981	349,333	$1,028,593	1,734,666	$3,414,561
1982	701,262	1,149,520	2,953,877	3,921,536
1983	1,606,938	1,431,001	5,050,752	7,076,442
1984	839,914	2,374,478	5,657,699	10,050,776

Imports of silicones misclassified as "rubber" have increased 328% in terms of quantity and almost 200% in terms of value between 1981 and 1984, and the value of those imports in 1984 was over four times greater than that for silicone plastics materials. It is important to note that the rates of duty misassessed against silicones classified as "rubber" are considerably less than the rates applicable to other sili-

---

[6] Under the CCT, all silicones are classified under item 39.01 C VI of Section VII, Chapter 39 which provides for:

"Condensation, polycondensation and polyaddition productions, whether or not modified or polymerised, and whether or not linear (for example, phenoplasts, aminoplasts, alkyds, polyallyl esters and other unsaturated polyesters, silicones):

* * * * * * *

C. Other

* * * * * * *

VI Silicones"

[7] See Headnote 1(c) of Chapter 39 which excludes rubbers from Chapter 39, and Headnote 4(a) of Chapter 40 of the CCT which defines rubber as an unsaturated synthetic substance which can be irreversibly transformed into non-thermoplastic substances by vulcanization with sulfur and which meets a stretch and return test.

[8] ITC Memorandum at 12.

[9] Such compounds include organo-silanes, organosilyl halides (halosilanes), silanols, alkosilanes and silyl esters. Further, the statistics for imports and exports classified under the various organo-silicon basket categories do not provide any useful information in the analysis of the trade impact of the proposed legislation.

cones. The duty rates for "rubber" ranged from 2.6% ad valorem in 1981 to 1.1% ad valorem in 1984. On the other hand, imports of other silicone materials, which are assessed at a much higher rate, have shown a much smaller rate of growth during the same time period. The rates of duty assessed against these latter materials ranged from 1.2 cents per pound plus 9.4% ad valorem in 1981 to 1.1 cents per pound plus 8.6% ad valorem in 1984. With respect to silicones classified as "rubber", the proposed legislation will correct the unintended benfit bestowed upon importers by error.

Finally, we note and agree with the technical changes made by the Commission regarding spelling and punctuation.[10]

IV. CONCLUSION

For the aforesaid reasons, we respectfully request that the proposed legislation be enacted. Further, we support the modifications suggested by the Commission in its analysis of S. 579.

We, and representatives of our clients, are available to meet with you at your convenience to discuss this matter.

[Attachments have been retained in the committee file.]

STATEMENT OF P.G. GEMEINHARDT, DIRECTOR, COMMUNICATIONS AND ADVOCACY FOR CHEMICAL INDUSTRY ISSUES, MOBAY CHEMICAL CORP.

SUMMARY

With this statement, Mobay Chemical Corporation makes known its strong opposition to House of Representatives Bill 2186 as introduced by Representative Vander Jagt on April 23, 1985. This bill proposes reducing to one class all silicone products regardless of form, chemical makeup, or potential use while imposing a single duty rate. This rate happens to be higher than the rate being charged for the highest volume imports. Interestingly enough, this bill would lower the duty on silicone resins which are imported in any significant volume, and benefits no one.

H.R. 2186 is nearly identical to a bill (H.R. 5422) introduced to Congress during the previous session by Representative Albosta. The Trade Subcommittee did not act on that bill because, we were told, of the strong and widespread opposition to it. Mobay expressed its concern and opposition to these classification and duty changes then as we do now. Our reasons for this opposition has not changed in the time period since the subject was last considered by the Committee because circumstances regarding our business, our position in the marketplace and Custom's traditional way of classifying chemical products have not changed. The reasons are summarized as follows:

as a major importer of silicone materials, Mobay's business would be irreparably harmed by enactment of H.R. 2186,

passage of this bill would give U.S. manufacturers of silicone materials an unfair marketing advantage and would discriminate against importing companies,

as proposed, the bill would force users of silicone products to buy domestic products thus severely limiting access to foreign technology that could lead and has led to improved products,

passage of this bill would severely limit the amount of silicone raw material currently available to hundreds of chemical compounding companies in the U.S. since the domestic silicone producers sell mainly value added products and not raw materials,

enactment of the bill would cause Mobay to reevaluate plans for domestically producing some select, key compounded products that would be made from more costly imported silicone raw material,

the proposal completely disregards the distinct chemical and physical differences in silicone materials upon which current classifications are based,

H.R. 2186, if passed, would conflict with the historically logical and proper classification of imported products that are distinctly different in chemical and physical makeup and in use.

---

[10] ITC Memorandum at 14.

STATEMENT

Mobay Chemical Corporation, whose parent is Bayer A.G. of Leverkusen, West Germany, is headquartered in Pittsburgh, PA. Since its formation in the early 1950's, Mobay has established itself as a diversified manufacturer of chemical intermediates and polymeric resins. Our operating divisions supply products to broad areas of U.S. industry having need for silicone intermediate chemicals, polyurethane raw materials and polymers, agricultural chemicals, dyestuffs, pigments, plastics, coatings ingredients and textile fibers.

Passage of this bill would have a significantly negative impact on our business. Mobay is one of the largest importers of silicone products in the United States. Based on current TSUS schedules, we have been successful in gaining market share against formidable domestic competition by astute marketing and matching key property advantages to application niches. The imposition of this bill's proposed single duty rate, which happens to be a rate higher than is currently applied on those products imported in large volume, would greatly affect our ability to compete with those companies offering similar products that are made in this country. This would clearly discriminate against importing companies, such as Mobay, by giving U.S. manufacturers an unfair marketing advantage. In addition, it would force users to buy domestically and thus would severely limit access by users to foreign technology that could lead and has led to improved end use products. As an example of this last point, several forms of silicone products that we presently import are not available from any of the domestic companies supplying silicone products. The reason for this is that our parent company's research in silicone chemistry oftentimes lead to special qualities and properties satisfying unique end use needs. This is good for the marketplace and also good for competition.

In Mobay's efforts to compete in the fiercely competitive U.S. silicone products market, we concentrated commercial development activities on a limited number of select segments of the market that were not being well served by the national distribution network. As a result, business has progressed to the point where we are in the mdist of planning for the investment of capital in plant equipment to manufacture tailor-made compounded products from imported raw materials to serve these market niches—raw materials that we thought would be duty free in 1987 because of the current TSUS schedules. Our plans call for siting this plant in a very depressed area of western Pennsylvania—an area in desperate need of revitalization—using local workers to staff the operation. The reclassification proposed in H.R. 2186 would serve only to increase the duty rates of these and other silicone products causing Mobay to reassess these production plans because of higher costs. Clearly, this would give other U.S. producers an unfair advantage at the expense of the consuming market.

If enacted, H.R. 2186 would disrupt the historical classification system used by the U.S. Customs Service that traditionally provided separately for distinctly different and separate articles of trade. Silicone products are presently classified under four distinctly different tariff numbers because the class of silicone products are distinctly different in terms of chemical and molecular structure, physical and chemical properties and the end uses they serve. That is proper classification for these materials.

Congressman Vander Jagt's proposal also conflicts with an International Trade Commission (ITC) report dated June 30, 1983 to the President, covering the conversion of TSUS into the Nomeclature Structure of the Harmonized System, that recommended retaining the separate classification for silicone resins and materials. The report, prepared as a result of an ITC investigation of tariff schedules according to Presidential guidelines, recognized the distinctly differing character in this class of chemicals and sought for the preservation of the historical integrity of the TSUS as it has been administered by the Customs Service. We think it is terribly wrong tc change this, as passage of H.R. 2186 would, merely to benefit a select group of special interests for whom the initiative was taken.

Additional information, in support of this point, is given in the attached as prepared by Shaw and Stedina, Attorneys for Mobay. In 1984, this was submitted by Mobay to the Office of the United States Trade Policy Staff Committee, on the ITC's Conversion of the Tariff Schedules of the United States annotated into the Nomenclature Structure of the Harmonized System. Interested partners were requested to submit comments and recommendations to the Trade Policy Staff Company on the ITC conversion. Domestic silicone product producers strongly suggested a single classification and duty rate for silicone products. The Shaw and Stedina submissions was Mobay's opposition to the one classfication and rate concept. The Trade Policy Staff Committee in September 1984 upheld the historical practice of distinct classifi-

cation and rates for Silicone Products. Also provided are chemical examples of silicone products that are distinctly different to show that the current classifications of these products are logical and proper.

Mobay urges the committee to reject H.R. 2186, leaving unhampered the current classifications and TSUS schedules for these silicone materials.

If there is a need for further communication on this matter, please contact P. G. Gemeinhardt, Mr. D. J. Oehl (412/777-4624) or Mr. S. L. Sarniak (412/777-2015).

[Attachments have been retained in the Committee files.]

H.R. 2225

Relating to the Customs treatment of certain wearing apparel produced in the insular possessions of the United States

See joint statement of Hon. Ron de Lugo, a Member of Congress from the Virgin Islands; Hon. Fofo I. F. Sunia, a Member of Congress from American Samoa; and Hon. Ben Blaz, a Member of Congress from Guam, under H.R. 2028.

AMERICAN FIBER, TEXTILE, APPAREL COALITION,
Washington, DC, June 28, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: This is in response to the Subcommittee on Trade Press Release No. 8 dated May 16, 1985 requesting written comments on miscellaneous tariff and trade bills. We are writing on behalf of the 21 organizations (list attached) of the American Fiber, Textile, and Apparel Coalition (AFTAC) to express our opposition to H.R. 2225, a bill introduced by Congressman Blaz relating to the customs treatment of certain wearing apparel produced in the insular possessions of the United States.

H.R. 2225 would amend the Tariff Schedules of the United States in such a way as to provide different rules of origin for knit-to-shape garments assembled in U.S. insular possessions than for such garments assembled elsewhere abroad. However, the U.S. Customs Service regulations on rules of origin for imported textile products clearly state that the Customs Service does not consider the assembly of knit-to-shape garments to be an origin-conferring process. We agree and do not believe that this rule should be changed for apparel assembled in an insular possession. To do so would create an incentive to tranship apparel parts through insular possessions for assembly and therefore allow them the special tariff treatment which insular possessions enjoy. It is clear to us that H.R. 2225 would reopen exactly the loophole which the Customs Service recently sought to close—unclear country-of-origin regulations which were resulting in circumvention of the textile import program.

AFTAC is extremely concerned that passage of H.R. 2225 would also lead to significant confusion over the implementation of the amended country-of-origin regulations for textiles and apparel. The revised rules of origin are essential to the implementation of the U.S. textile imports program and we must strongly object to any action which threatens them. Not only would this legislation create a substantial loophole with respect to the insular possessions but it could possibly lead to an unraveling of the improvements which the amended rules provide.

For these reasons, AFTAC must oppose the passage of H.R. 2225.

Sincerely,

G. STEWART BOSWELL, *Chairman.*

Attachment.

MEMBERS OF AMERICAN FIBER/TEXTILE/APPAREL COALITION

Amalgamated Clothing & Textile Workers Union
American Apparel Manufacturers Association
American Textile Manufacturers Institute
American Yarn Spinners Association
Carpet and Rug Institute
Clothing Manufacturers Association of America
Industrial Fabrics Association International
International Ladies Garment Workers Union
Knitted Textile Association
Luggage and Leather Goods Manufacturers of America
Man-Made Fiber Producers Association

National Association of Hosiery Manufacturers
National Association of Uniform Manufacturers
National Cotton Council
National Knitwear Manufacturers Association
National Knitwear & Sportwear Association
National Wool Growers Association
Neckwear Association of America
Northern Textile Association
Textile Distributors Association
Work Glove Manufacturers Association

GUAM CHAMBER OF COMMERCE,
Agana, GU, June 27, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN GIBBONS: The Guam Chamber of Commerce wishes to express its support of legislation recently introduced by Congressman Ben Blaz (H.R. 2225) relating to the customs treatment of apparel produced in insular possessions of the United States.

While the General Headnote 3(a) statute was enacted to stimulate manufacturing in Guam and other U.S. possessions over thirty (30) years ago, manufacturing operations remain a negligible factor in our local economy today. Throughout this period, we have witnessed investors who have engaged in manufacturing pursuits come and go—not for the limitation in our natural resources, but the many trade restrictions instituted by the federal government that have effectively undermined the spirit and intent of Headnote 3(a), and become prohibitive in the sustainment of viable manufacturing operations on island. These and other federal barriers to Guam's economic development have resulted in Guam's persistent reliance upon public spending and Guam's marginal economic growth over the years. In the meantime, our Asian neighbors continue to dominate international trade markets, and our fragile economy becomes more and more vulnerable to the ever decreasing levels of federal spending in our Territory. Unless the existing barriers to the development of our private industries are removed, Guam's fiscal autonomy will remain in the distant future.

We, therefore, ask that Congress evaluate the economic significance that underscores H.R. 2225, and act favorably in the interest of Guam and the U.S.

Sincerely yours,

ELOISE R. BAZA, *President.*

NATIONAL KNITWEAR & SPORTSWEAR ASSOCIATION,
New York, NY, May 15, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

DEAR MR. GIBBONS: I understand that on April 25, Mr. Blaz and Mr. Frenzel introduced legislation (H.R. 2225) which would change the customs treatment of wearing apparel produced in the insular possessions of the United States. The National Knitwear and Sportswear Association is vigorously opposed to that legislation, and it urges that it not be treated as a "non-controversial" miscellaneous tariff item.

H.R. 2225 would create significant confusion with respect to the recent decisions of the Customs Service and the Treasury Department concerning rules of origin. Even if limited to purposes of the tariff schedules and not quota implementation, the bill would offer special tariff treatment for certain knit-to-shape products which have been knit in China and elsewhere, but which have been simply assembled in the insular possession. We do not believe that this assembly process as carried out in the insular possessions should provide a basis for establishment of country of origin, whether for tariff schedule purposes or the purposes of Section 204 of the Agriculture Act of 1956 as amended. Furthemore, it is unclear to us whether this proposed bill attempts, through the back door, to undercut the recently announced rules of origin, but we believe that is part of the purpose.

The Association opposes this legislation and urges that it not be treated as a non-controversial, simple miscellaneous tariff item.

Again, we are convinced that the rules of origin decision was a correct one on the merits, and that this bill is part of a longer running effort to undercut that decision and to create considerable confusion in the implementation of the rules of origin decision by the Bureau of Customs.

In the event hearings are scheduled on this bill, we would request the opportunity to appear and/or provide a written statement for the record in accordance with the circumstances of the hearing and available time. Thank you very much for your interest in this matter.

Very truly yours,

SETH M. BODNER,
Executive Director.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS,
June 27, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, House Committee on Ways and Means, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY. This is to comment on H.R. 2225, a bill relating to the customs treatment of certain wearing apparel produced in the insular possessions of the United States. This measure is designed to remedy some of the damage done to United States trade policy in its territories and insular possessions by last year's "country of origin" regulations, formally known as "Customs Regulations Amendments Relating to Textiles and Textile Products", 50 Fed. Reg. 8710 (March 5, 1985). The bill would treat garments assembled in the insular possessions from knitted component parts as if they were products of the insular possessions, and so ensure that they were exempted from duty under Headnote 3(a).

I'm sure that the committee is aware of the vital importance of General Headnote 3(a) to the economic development efforts of the territories and insular possessions of the United States. For more than 80 years, off-shore territories of the United States have enjoyed special trade preferences under federal law; and for 50 years General Headnote 3(a) and its statutory antecedents have been bipartisan federal policy to foster development in the territories and possessions. Under the headnote, products of the island territories have entered the customs territory of the United States without quota and duty-free. Our commonwealth negotiated for and received this development incentive in our covenant with the United States.

H.R. 2225 will help to prevent the destruction of this important territorial policy, and so I support it. I am concerned, however, that the measure does not go far enough in preserving the access of products of the U.S. territories to U.S. markets.

When the U.S. Customs Service published the country of origin regulations in August of last year, it caused two profound changes in territorial trade policy. First, it caused products of the island territories to be, for the first time, treated as products of a foreign country. This allowed the customs service to assert jurisdiction over these products under the foreign affairs authority of the executive branch. It also allowed them to regulate the island industries without regard for due process, and to effectively outlaw these products, or subject them to quota, under section 204 of the Agriculture Act of 1956.

Second, the customs service also asserts that these new regulations empower it to levy duty on these imports from the territories regardless of whether or not they qualify under the 50 percent standard of Headnote 3(a). It is only the latter problem that is addressed by H.R. 2225.

I believe that the levy of duty on these goods is contrary to the current law under Headnote 3(a), and that the articles covered by the bill are entitled to duty-free entry without regard to the country of origin regulations.

In supplementary information accompanying the "Customs Regulations Amendments Relating to Textiles and Textile Products", the United States Customs Service asserts that, under General Headnote 3(a), "to achieve the preferential tariff treatment, merchandise must *both* be the growth or product of the insular possession *and* satisfy a specified percentage of its value derived from that insular possession." (Emphassis added.) *Id.* at 8712. The customs service thus envisions the possibility that an article could derive more than the specified minimum percentage of its value from the insular possession without being considered a product of that insular possession.

That was not, however, the intent of Congress. The percentage of local value in an article was intended to furnish a bright-line test to determine whether that article is local. In both the Senate and House reports on the legislation that became the

Customs Simplification Act of 1954, the intent of Headnote 3(a) was described differently:

"The new section would provide that all articles imported from an insular possession of the United States, except Puerto Rico, shall be dutiable at the same rate as are importations from foreign countries, except those which (1) are of native growth or product *or* (2) are manufactured in such possession and contain 50 percent or less of foreign materials or (3) are articles previously imported into the United States directly to the possession without remission, refund, or drawback of such duties or taxes. (Emphasis added.) Senate Report 2326, 83d Cong., 20 Sess 10 (1954) at 6; House Report 2453, 83d Cong., 2d Sess. 12.

Thus, Congress clearly intended that an article manufactured in an insular possession and containing no more than 50 percent foreign materials would be entitled to enter the customs territory of the United States without payment of duty. Congress did not intend that the article be subject to an additional test, that the article also be the growth or product of the possession.

H.R. 2225 will clarify that the country of origin regulations are not effective to render the subject articles dutiable under General Headnote 3(a), and I support its passage. I hope that the Congress will give future consideration to the propriety of regulating U.S. territories pursuant to the foreign affairs authority of section 204 of the Agriculture Act of 1956.

Sincerely,

FROILAN C. TENORIO,
Resident Representative.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS,
July 11, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, House Committee on Ways and Means, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: This is to supplement my comments on H.R. 2225, which I submitted in support of the measure on June 27, 1985. Since I sent those comments, I have noted that the bill applies only to products of the "insular possessions" of the United States. As the Commonwealth of the Northern Mariana Islands is still a part of the Trust Territory of the Pacific Islands, it is technically not yet an insular possession of the United States.

I presume that the measure is intended to apply to the Commonwealth of the Northern Mariana Islands in light of the provisions of section 603(c) of the covenant with the United States. Pub. L. 94-241 (90 Stat. 263).

I encourage the Congress to make that intent express in this measure in order to comply with section 105 of the convenant.

Thank you for your attention to this matter.

Sincerely,

FROILAN C. TENORIO,
Resident Representative.

STATEMENT OF SIGALLO-PAC LTD., PRESENTED BY SIEGEL, MANDELL & DAVIDSON

SUMMARY

On behalf of our client, Sigallo-Pac Ltd. of Guam, pursuant to Press Release No. 8 of the Subcommittee on Trade, this statement is submitted in support of H.R. 2225. Our name, address and telephone number are as set forth above. In summary, we support H.R. 2225 because it would merely preserve the duty-free tariff treatment presently extended to certain sweaters assembled in insular possessions from foreign components. Such duty-free treatment is eliminated by the new textile products "rules of origin" published by the Customs Service. Failing passage of this legislation, prohibitive rates of duty will be assessed on sweaters shipped to the mainland by Sigallo-Pac, and the company will be forced to shut down, with severe consequences to the economy of Guam. Such a development would play into the hands of advocates of Guamanian separation.

STATEMENT IN SUPPORT

H.R. 2225, introduced by Mr. Blaz and Mr. Frenzel, would add the following new provision to General Headnote 3(a) of the Tariff Schedules of the United States (19

USC 1202), pertaining to the tariff treatment of items coming into the United States from an insular possession:

"Any article of wearing apparel which is assembled in an insular possession of the United States by joining together (by sewing, looping, linking, or other means of attaching) otherwise completed knit-to-shape component parts of foreign origin shall be treated, for purposes of the Schedules and the Tariff Act of 1930, as if such article was a product of such insular possession."

The foregoing language would provide a limited exception to the new textile products "rules of origin" published in final form in T.D. 85–38, 19 Cust. Bull. 12, March 20, 1985. The stated purpose of the new "rules of origin" is to prevent circumvention or frustration of visa or export license requirements contained in multilateral and bilateral agreements to which the U.S. is a party. H.R. 2225 would affect only the rate of duty and country-of-origin marking requirements of the law, and would leave untouched any import restraints imposed from time to time by the U.S. government on the type of wearing apparel covered by the bill.

This legislation is urgently needed because T.D. 85–38 represents a reversal of the prior tariff treatment of Sigallo-Pac's shipments of sweaters to the U.S. mainland (see Customs Rulings 067217, 071303, and 071359, copies attached). T.D. 85–38 would impose a prohibitive duty on such shipments and would force the company to close.

The problem

Pursuant to § 204 of the Agricultural Adjustment Act of 1956 (7 USC 1854) the United States has negotiated a network of import restraint agreements within the framework of the so-called Multifiber Arrangement (MFA).[1] T.D. 85–38, in an effort to toughen administration of the MFA, overruled a judicial decision [2] and numerous Customs rulings defining the "country-of-origin" as the country or territory where the item was completed (substantially transformed), and imposed instead a blanket rule stating, among other things, that an article will not be considered a product of an insular possessions by virtue of "merely" having undergone any of the following:

"Trimming and/or joining together by sewing, looping, linking, or other means of attaching otherwise completed knit-to-shape component parts produced in a single country, even when accompanied by other processes (e.g. washing, drying, mending, etc.) normally incident to the assembly process."

The quoted language represents a complete reversal of prior Customs rulings specifically obtained by Sigallo-Pac as a necessary prerequisite to the establishment of its factory in Guam.

In the broader view, the foregoing regulation completely nullifies the legislative purpose underlying General Headnote 3(a), which was to promote the growth of manufacturing industry in the insular possessions—a legislative purpose which dates back to the Act of March 8, 1902, 32 Stat. 54, granting a 25% duty advantage to articles the growth or product of the Phillipines. This provision in turn gave rise to § 5 of the Tariff Act of 1909, allowing duty-free treatment to articles the growth or product of, or manufactured in the Phillipines which did not contain foreign materials to the value of more than 20%. Section 5 was reenacted in the Tariff Acts of 1913 and 1922, and was carried forward into § 301 of the Tariff Act of 1930, which in turn became § 301a of the Tariff of 1930 (19 USC 1301a) as added by the Customs Simplification Act of 1954. This last provision granted duty-free treatment to articles grown or produced in insular possessions, not containing foreign materials exceeding 50%, and in turn became the model for present General Headnote 3(a).

Thus, a legislative policy in favor of our insular possessions, of 83 years' standing, was summarily overturned by T.D. 85–38 in regard to wearing apparel of the type produced by Sigallo-Pac. Its sweaters, duty-free since the inception of manufacture on Guam, will now become subject to the prohibitive rates of duty under Item 379.76, TSUS, of $.12 per pound plus 18% ad valorem. At this writing, all that is required of Customs to impose this confiscatory rate is to publish a "change of practice" notice pursuant to 19 USC 1315. After T.D. 85–38, however, the outcome of such proceeding is a foregone conclusion. Unless Congress acts, Customs' issuance of its change of practice will amount to a death announcement of Sigallo-Pac's factory on Guam, as well as other facilities engaged in similar apparel manufacturing operations in the Northern Marianas.

---

[1] See Background Material on the Multifiber Arrangement (1979 edition) prepared by the staff of the Subcommittee on Trade for the use of the Committee on Ways and Means (96th Cong., 1st Sess., Serial WMCP: 96–10).

[2] *Cardinal Glove Co., Inc.* v. *United States*, 4 C.I.T. 41 (1982)

The economic consequences in Guam of Sigallo-Pac's demise

Sigallo-Pac was established in 1981 and, as stated above, its inception and operations have been governed and guided by rulings obtained at each step of the way from the Customs Service, establishing the factory's output as entitled to duty-free treatment under General Headnote 3(a). The initial years of operation were characterized by a heavy investment in plant and equipment, accompanied by substantial outlays to train local residents in the exacting requirements for the manufacture of finely-crafted sweaters selling near the top of the line. Because of these heavy start-up expenditures, it is only recently that Sigallo-Pac started to show a profit. The company presently employs approximately 300 United States residents in Guam and, in addition, maintains 125 employees on its payroll in New York and South Carolina, primarily for the purpose of obtaining and shipping the components to Guam, and importing and distributing the finished sweaters. The company's continued existence is dependent upon the duty-free treatment presently existing by virtue of General Headnote 3(a), TSUS. Sigallo-Pac simply cannot compete with sweater manufacturers in the Orient whose wage base is low enough to offset the U.S. duty, because the company employs only American labor and pays at or substantially above U.S. minimum wages. Presently, Sigallo-Pac is the largest single manufacturing operation, and the largest private employer, on the island of Guam. It has a modern air-conditioned plant and has been described by the United States Department of Interior as a model factory which is precisely the type of company which the Administration wants to encourage. Should it cease operations, the economic ramifications would be widespread. The company's annual payroll, in excess of $2,000,000, would be lost; those workers thrown into idleness would hard-pressed to find other jobs; and doubtless Guam's present unemployment rate of 7.9% would thereby increase.

Viewed from another angle, should Sigallo-Pac be forced out of business, the chances of Guam attracting replacement private investment capital would be nil. In addition, Guam's requirements for continuing monetary assistance from Washington would doubtless increase.

The special stewardship obligation towards Guam needs repair

The special arrangement between the United States and its incorporated territories, the stewardship of which is vested in the Secretary of the Interior, is well-known. One aspect of that stewardship is the economic development of the territories. To the extent that the unilateral impairment of General Headnote 3(a) duty treatment has been accomplished by T.D. 85–38, the economic aspects of our special relationship with Guam have been seriously breached. There are those in Guam who would seize upon this breach of faith and use it as a weapon of political agitation to seek modification of the compact of association. To the extent that passage of H.R. 2225 would undo the damage done by T.D. 85–38, these voices would be muted.

Sigallo-Pac's sweater production is a substantial manufacturing operation

The primary purpose of the new textile article rules of origin set forth in T.D. 85–38 is to prevent mere "pass-through" operations, e.g., a textile article being imported in its components from country of production A into country or territory B in essentially finished form, then completed in country or territory B by the use of comparatively minor operations, and thereby escaping quota restraints. In contrast, however, as the attached Customs rulings setting forth the necessary manufacturing steps indicate, Sigallo-Pac's production in Guam requires a great deal of skill, substantial time, and significant direct and indirect costs.

H.R. 2225 does not affect current or future quantitative restrictions on sweaters from Guam

By agreement reached early in 1985 between then Ambassador William Brock as Chairman of the Cabinet-Level Trade Policy Committee and the governor of Guam, a special import restraint exemption was granted covering 160,000 dozen sweaters assembled in Guam from parts originating in quota countries, thereby becoming, in effect, a sweater "quota" applicable to Guam. It is obvious that quota restraints, not rates of duty, serve as the primary protection for the domestic industry. H.R. 2225 was specifically drafted so as not to disturb the foregoing arrangement, nor does it detract from the authority of the U.S. government to continue the arrangement. For this reason, the domestic sweater industry has nothing whatsoever to fear from the bill.

Conclusion

H.R. 2225 would simply restore the *same tariff status* enjoyed by this class of wearing apparel when produced in an insular possession, as had existed prior to the

effective date of the new regulations. It is important to note that textile quota status is not affected. The bill would preserve the present knitwear industry in Guam and the Northern Marianas from almost certain destruction by the new rules of origin, but would keep in place the protection afforded by the quota system to the domestic industry manufacturing competing products. For Sigallo-Pac alone, approximately 300 jobs are at stake in Guam and an additional 125 in the United States which would not be sacrificed or allowed to become unintended casualties of the much larger struggle over access to the U.S. market by foreign producers of wearing apparel.

[Attachments have been retained in the committee files.]

H.R. 2226

To amend the Tariff Schedules of the United States to provide for rates of duty on imported bicycles and bicycle parts consistent with those rates of duty maintained by the principal exporting nations of bicycles and bicycle parts to the United States, and for other purposes

U.S. International Trade Commission

Section-by-section analysis

This legislation would increase the column 1 rate of duty [1] on 21 items in the Tariff Schedules of the United States (TSUS) covering bicycles, certain of their parts, and their tires and tubes, to a uniform rate of 19 percent ad valorem. The present duty rates range from 5 percent ad valorem to 15 percent ad valorem.

Section 1 of the legislation would increase the rate of duty on bicycles classified in TSUS items 732.02–732.26, inclusive, from rates which currently range from 5.5 percent ad valorem to 15 percent ad valorem. In terms of trade in 1984, the two most important TSUS items were 732.12 and 732.18, under which 29 percent and 52 percent, respectively, of U.S. imports entered.

Section 2 would increase the rates of duty on those bicycle parts classified in TSUS items 732.30–732.42, inclusive; included are items covering articles temporarily eligible for duty-free entry. Current duties range from 5.6 percent ad valorem to 11.7 percent ad valorem. In 1984, most articles classified as parts and not subject to the temporary duty suspension entered under TSUS item 732.42. Certain other parts of bicycles are classified elsewhere in the tariff schedules because of the application of TSUS general headnote 10(ij).[2] In addition, there are specific provisions elsewhere in the schedules for bicycle chain.

Section 3 would increase to 19 percent ad valorem the rates of duty on bicycle tires (from 5 percent ad valorem) and on bicycles tubes (from 15 percent ad valorem).

In section 4 of the bill, bicycles and bicycle parts would be added to the list of articles included in section 503(c)(1) of the Trade Act of 1974 (19 U.S.C. 2463(c)(1)) which cannot be designated eligible to receive duty-free treatment within the context of the Generalized System of Preferences (GSP).[3] However, bicycle tires and tubes, on which the duty rates were increased, are not made ineligible for GSP purposes.

Section 5 would exempt those parts of bicycles covered by a temporary duty suspension from the duty increase, as long as TSUS item 912.10 is in effect. The provision would not preclude changes in the scope of coverage of that tariff item.

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CEBRA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The rule provides that 'a provision for "parts" of an article covers a product solely or chiefly used as a part of such article, but does not prevail over a specific provision for such part.' Thus, for example, a bolt is classified as such, not as a bicycle part.

[3] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

Section 6 would make the amendments effective on or after the 15th day after the date of enactment, subject to section 5.

Background and sponsor's justification

Description and uses.—This legislation covers bicycles, parts of bicycles covered by enumerated tariff items, bicycle tires, and tubes for bicycle tires. It does not cover other articles used with or on bicycles, such as chains, bells, lights, horns, and speedometers, which are classified in other items of the TSUS.

Bicycles and parts.—Bicycles are two-wheel vehicles propelled by their riders, with uses ranging from transportation to recreation to exercise. They are available in a wide variety of types, styles, and sizes. Bicycles which account for most sales are grouped by the trade in two categories—light-weight and 20-inch styles. These classifications reflect differences in wheel size as well as in design and equipment. The two most important identifying characteristics are the cross-sectional diameter of the tires and the shape of the frame.

Lightweight 10-speed bicycles were the major category sold in the U.S. market during 1980–84. Adults (generally defined in the industry as anyone old enough to operate an automobile legally) constituted a large part of the market for these bicycles.

The most popular 20-inch model bicycles are the BMX (bicycle motorcross) and the "high riser." The BMX, which is made to look like the motorcycle used in motorcross racing, has been increasingly popular in recent years. High risers have extended handlebars and elongated saddles raised on adjustable seat braces and are designed for children. Another bicycle which has experienced substantial import growth in recent years is the sidewalk bicycle, which generally has 16-inch wheels and is designed for off-road use by children.

The major commercial domestic producers all use a similar process to manufacture bicycles. However, the quality of components, the grade of steel used for tubing, and the care in welding and finishing operations varies from manufacturer to manufacturer depending on the model and on the market being served. The number of bicycle parts produced by each bicycle manufacturer also varies considerably. However, each generally has a highly automated "tube mill" which produces steel tubing from U.S.-sourced steel sheets for use in the frame, seat post, forks, handlebar stem, and handlebar.[4] Various welding processes are used, including furnace brazing, electro welding (also known as flash welding), and brazing with lugs. Lugs are small metal sleeves which are fitted to the tubes prior to brazing. The lugs act as braces where the tubes are fitted together. Only a small portion of U.S.-made bicycles are lugged, while most imported lightweight bicycles are lugged. Lugged bicycles generally have been sold through independent bicycle dealers and nonlugged bicycles through mass merchandiser outlets. However, in 1984, industry sources report that the number of imported lugged frame bicycles selling in mass merchandiser outlets increased significantly.

Domestic manufacturers rely heavily upon other domestic and foreign manufacturers for parts. Some parts, such as three-piece cotterless type crank sets and coaster brakes designed for single-speed bicycles, are no longer produced in the United States.

Bicycle tires and tubes.—Bicycle tires and tubes are available in about 20 sizes. Size measurements are stated in terms of diameter and cross section of the tire. Most shipments of bicycle tires, both domestic and imported, are in the 20-inch, 26-inch, and 27-inch diameter categories.

Pneumatic clincher-type tires, which incorporate a replaceable tube, are designed for normal bicycle use. All domestic bicycle tire production, as well as virtually all bicycle tire imports, are of this type. Tubular tires (pneumatic tires in which tubes are permanently encased), which account for a relatively insignificant proportion of the imports, are used primarily on racing-type bicycles and are not considered by the industry to be competitive with the clincher-type tires.

Bicycle tires are characterized by two main features: (1) the color of the sidewalls, which imparts a particular styling or cosmetic effect, and (2) the tread design. Tires with rib-type treads account for the bulk of sales of both the domestic and imported products.

Two types of tubes—regular and heavy-duty—are marketed in the United States. Heavy-duty tubes, which are puncture or thorn resistant, are marketed primarily in the Western States.

---

[4] To be a "manufacturer" of bicycles, U.S. industry representatives have generally taken the position that the firm must at least produce the frame.

Techniques used in the manufacture of bicycle tires and tubes are basically the same throughout the world. In the manufacture of bicycle tires, layers of fabric (usually nylon) combined with layers of synthetic rubber are wrapped around two rubberized metal wires (beads) to form the tire carcass. The synthetic rubber used in bicycle tire production is styrene-butadiene rubber (SBR), which has excellent abrasion resistance.

In the production of inner tubes, butyl rubber (another synthetic rubber) and other ingredients are mixed at high temperatures and then extruded through molds to different sizes which form the rubber into continuous hollow tubes of varying diameters. After the tubes have cooled, they are cut to length and the valve stem is inserted. Finally, the ends of the tube are spliced and the inner tube is vulcanized.

Sponsor's justification.—The sponsor states that, "if enacted, this legislation would halt the dramatic escalation of imports that has been the cause of serious injury to the U.S. bicycle industry and its suppliers."[5] In addition, it would make tariff levels of these articles closer to the often higher levels of principal suppliers to the U.S. market, notably Taiwan. The sponsor notes rapid increases in imports of both bicycles and bicycle parts, especially of bicycles in 1984. This, he believes, caused the loss of market share to imports of bicycles, even in a larger 1984 market; decreased producers' shipments; adversely affected financial performance; and decreased employment in the industries producing bicycles and parts of bicycles. In addition, these trends continue in 1985, he notes.[6]

Previous Commission investigations

In recent years the United States International Trade Commission has conducted several antidumping investigations concerning the articles involved in this report. Most recently, in May 1984, the Commission determined that industries in the United States were being materially injured by reason of imports from Taiwan of bicycle tires and tubes, provided for in items 772.48 and 772.57, respectively, of the TSUS (Investgation No. 731-TA-166 (Final)).

On August 17, 1983, the Commission determined that an industry in the United States was not materially injured or threatened with material injury, and that the establishment of an industry in the United States was not materially retarded, by reason of imports of bicycles from Taiwan, provided for in items 732.02 through 732.26, inclusive, of the TSUS which had been found by the Department of Commerce to have been sold in the United States at less than fair value (LTFV) (Investigation No. 731-TA-111 (Final)). The Commission had found, in November 1982, that there was no reasonable indication that an industry in the United States was materially injured, or was threatened with material injury, by reason of imports of bicycles from Korea, provided for in items 732.02 through 732.26 which were allegedly being sold in the United States at LTFV. (Investigation No. 731-TA-110 (Preliminary).)

In Investigation No. 731-TA-94 (Preliminary) the Commission determined, on June 9, 1982, that there was a reasonable indication that an industry in the United States was threatened with material injury by reason of imports of bicycle tires and tubes from Taiwan. The Commission instituted, on December 7, 1982, a final antidumping investigation (No. 731-TA-94 (Final)). However, this investigation was terminated in May 1983 following Commerce's final negative determination concerning LTFV sales.

On January 10, 1983, the Commission instituted an investigation (No. 104-TAA-15) under section 104(b)(2) of the Trade Agreements Act of 1979 for the purpose of determining whether an industry in the United States would be materially injured, or threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of bicycle tires and tubes from Korea and Taiwan if an outstanding countervailing duty order were to be revoked. On May 10, 1983, the Commission determined that the revocation of the outstanding countervailing order would not cause or threaten to cause material injury to an industry in the United States.

Comparison with present law

Tariff treatment under the TSUS.—Bicycles and parts of bicycles, including bicycle tires and tubes, are classified under 21 TSUS provisions, as indicated in table 1 (attached). The most important bicycle provisions, in terms of the volume of trade entered, have been items 732.06, 732.12, and 732.18. Most sidewalk bicycles enter under item 732.06 at a column 1 rate of duty of 11 percent ad valorem and a column

---

[5] Congressional Record, pp. E1776–E1777, Apr. 25, 1985.
[6] Ibid.

2 rate[7] of 30 percent ad valorem. The 20-inch BMX and hi-riser bicycles enter under 732.12, also at a column 1 rate of 11 percent and a column 2 rate of 30 percent. Lightweight multispeed bicycles enter under 732.18 at a column 1 rate of 5.5 percent, the lowest column 1 rate for bicycles, and a column 2 rate of 30 percent ad valorem. There are no separate least developed developing countries (LDDC) rates[8] for these tariff items. The highest column 1 rate of duty is 15 percent ad valorem, assessed on imports entering under TSUS items 732.02, 732.08, 732.21, and 732.26. Eight of the twelve bicycle items, were exempted from duty reductions during the Tokyo round of Multilateral Trade Negotiations (MTN), and the four items receiving staged reductions have not recorded large volumes of trade.

For parts of bicycles, including bicycle tires and tubes, the current column 1 rates of duty range from a low of 5 percent ad valorem on bicycle tires in TSUS item 772.48 to a high of 15 percent ad valorem on bicycle tubes in item 772.57. Most of the imports of parts of bicycles, except tires and tubes, enter under TSUS item 732.42 at a column 1 rate of 12.5 percent, an LDDC rate of 10 percent, and a column 2 rate of 30 percent. The Tokyo round resulted in duty reductions on all parts of bicycles except bicycle tires and tubes.

Articles imported from designated beneficiary developing countries and classified under item 732.35 or 732.38 are eligible for duty-free entry under the Generalized System of Preferences (GSP).[9] None of the articles in the other TSUS items affected by this legislation are eligible for GSP treatment. However, imports from designated Caribbean countries under any of these provisions are eligible for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).[10]

TSUS item 912.10 (due to expire June 30, 1986) provides duty-free entry to enumerated parts of bicycles which, except for caliper brakes, are not produced in the United States. These parts include:

> Caliper brakes, drum brakes, coaster brakes, two-speed hubs with internal gear-changing mechanisms, three-speed hubs incorporating coaster brakes, three-speed hubs not incorporating coaster brakes, click twist grips, trigger and twist grip controls for three-speed hubs, multiple free wheel sprockets, cotterless type crank sets, frame lugs, parts of all the foregoing, including cable or inner wire for caliper brakes and casing therefor, whether or not cut to length, and parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for the assembly (with other parts) into the frame and fork of one bicycle. . . .

Tariff treatment under the proposed Harmonized System (HS).[11]—Table 2 (attached) shows the HS code number, the product description, and the proposed column 1 (general) rate of duty to be effective upon implementation of the HS for these articles.[12]

---

[7] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[8] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[9] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[10] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[11] The Harmonized System is intended to serve as the single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

[12] Source: Trade Policy Staff Committee, Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System (September 1984).

Structure of the domestic industry

Bicycles.—In 1984, eight firms accounted for virtually all of the domestic output of bicycles. According to their estimates in recent annual reports, Huffy accounted for "in excess of 40 percent" and Murray-Ohio for about 36 percent of U.S. producers' shipments. However, data for the second half of 1984 suggest that Murray's share may have decreased. In 1984, total employment in the bicycle industry amounted to an estimated 5,500 employees. The eight bicycle manufacturers are listed on the following page.

Manufacturer	*Location of principal plant*
Huffy	Celina, Ohio
Murray-Ohio	Lawrenceburg, Tenn.
Schwinn Bicycle Co.	Greenville, Miss. and Waterford, Wisc.
Roadmaster	Olney, Ill.
Columbia	Westfield, Mass.
Ross Bicycle Co.	Allentown, Pa.
BMX Products	Moorpark, Calif.
Trek Bicycle Corp.	Waterloo, Wisc.

There are also three assemblers of bicycles, as follows:

Assemblers	*Location*
Kent International	Kearny, N.J.
Bicycle Corporation of America	Allentown, Pa.
American Bike Co.	Brownsville, Tex.

Schwinn, Ross Bicycle, BMX Products, Trek, and the assemblers listed above make bicycles almost exclusively for distribution through over 7,000 small independent bicycle dealers. Nearly 1,900 of these are authorized Schwinn dealers. Approximately 25 to 30 percent of the bicycle units sold annually in the United States are marketed through these dealers. The remaining 70 to 75 percent of sales are sold through mass merchandisers supplied by Huffy, Murray-Ohio, Roadmaster, and Columbia. Most bicycles manufactured by U.S. producers and sold through mass merchandise outlets sell in the retail price range of about $70 to $200. Most of these do not have lugged frames. In contrast, most imported lighweight bicycles and many of those made by U.S. producers or assemblers for distribution through independent bicycle dealers have lugged frames and sell at retail prices ranging from $140 to several hundred dollars. In some cases, bicycles with lugged frames sell for thousands of dollars.

Bicycle parts.—The bicycle parts industry consists mainly of small businesses, the number of which is believed to have decreased below fifty in 1984; employment was estimated to be about 1,500 in that year. Production is believed to be broadly dispersed throughout the industry. Significant manufacturers of parts of bicycles are as follows:

Manufacturer	*Location*
Wald Manufacturing Co., Inc.	Maysville, Ky.
American Cycle System, Inc.	Covina, Calif.
Excel	Franklin Park, Ill.
True-Temper Sports	Memphis, Tenn.
Sun Metal Products, Inc.	Warsaw, Ind.
Troxel Manufacturing Co.	Moscow, Tenn.
Messinger Manufacturing Co.	Bethel, Conn.
Persons Majestic	Monroeville, Ohio
Union	Olney, Ill.
Elrae Industries	Buffalo, N.Y.
Thun, Inc.	Clarksville, Tenn.
Buckeye Forge	Cleveland, Ohio
Hunt Wilde	Tampa, Fla.
Ohio Rod Products	Versailles, Ind.
National Bearings, Co., Inc.	Lancaster, Pa.
Hartford Bearings	Rocky Hill, Conn.
Graber Products	Madison, Wisc.
Kool-Stop Safety Brakes	Lake George, Or.
Stewart Warner	Chicago, Ill.

Bicycle tires and tubes.—Carlisle Tire & Rubber Co., Carlisle, Pa., which is the only remaining U.S. producer of tubes and tires for bicycles, agreed to the release of

information about its employment of production and related workers. This information appears in the following tabulation:

	1981	1982	1983	As of Aug. 29, 1984 [1]
Bicycle tires	239	147	122	47
Bicycle tubes	160	98	82	18
Total	399	245	204	65

[1] A large layoff occurred at the end of June 1984.

Domestic production

Bicycles.—Table 3 provides data estimates for U.S. producers' shipments of bicycles. The estimated quantity of such shipments decreased annually from 6.9 million bicycles in 1980 to 5.2 million in 1982 and then increased to 6.3 million in 1983. Such shipments then decreased to 5.9 million in 1984. The estimated value of such shipments remained virtually unchanged between 1980 and 1984, at $535 million and $530 million, respectively. However, such shipments of bicycles, ranged from a high of $565 million in 1983 to a low of $470 million in 1982, a recession year.

Bicycle parts [13].—Table 4 shows that the estimated value of U.S. producers' shipments of parts of bicycles decreased irregularly from $110 million in 1980 to $95 million in 1982, and then increased irregularly to $110 million in 1984. Such shipments peaked at $115 million in 1981 and 1983. Shipments of parts paralleled the trend for bicycles, since most domestically produced parts are used in the production of U.S.-made bicycles.

Bicycle tires and tubes.—Tables 5 and 6 provide data released by Carlisle Tire & Rubber Co., the sole U.S. producer, on U.S. production of bicycle tires and tubes. Production decreased from 5.3 million tires in 1981 to 3.3 million in 1982 and increased to 4.4 million in 1983. By July 1984 Carlisle had produced 2.2 million tires, but it only expected to produce 2.8 million during all of 1984. Bicycle tube production followed similar trends, decreasing from 6.6 million tubes in 1981 to 3.7 million in 1982 and increasing to 5.2 million in 1983. During January-July 1984, Carlisle produced 2.5 million tubes and expected to produce 3.2 million during calendar 1984.

U.S. imports

Tables 7-10 provide data on U.S. imports of bicycles, parts of bicycles, bicycle tires, and bicycle tubes for 1980-84. Taiwan and Japan were by far the principal suppliers of bicycles. Japan dominates imports of parts of bicycles; Taiwan is also a large supplier, followed by Italy and France. Taiwan, Japan, and the Republic of Korea were the major foreign suppliers of bicycle tires. The principal suppliers of bicycle tubes were Taiwan and the Republic of Korea. U.S. imports from column 2 sources during 1984 amounted to $932,629. In addition, 45 percent of the parts of bicycles entering under TSUS items 732.30-732.42 during 1983 entered free of duty, because of GSP or the duty suspension.

Table 11 indicates, for each of the years 1981, 1982, and 1983, U.S. imports for consumption from each country supplying 10 percent or more of imports under each TSUS item affected by this legislation. This information could be used in determining any compensation owed those countries due to the increases in the rates of duty.

The names, obtained from public sources, of principal importers of bicycles are as follows:

Company	*Location*
Schwinn Bicycle Co.	Chicago, Ill.
Kent International	Kearny, N.J.
T. I. Raleigh (USA), Inc. (Owned by Huffy)	Long Beach, Calif.
Schenkers International Forwarders	New York, N.Y.
Midland International (Western Auto)	Kansas City, Mo.
West Coast Cycle Supply Co.	Culver City, Calif.
Fuji America	Oakland, N.J.
Wilcox International Corp. (Forwarder)	Brooklyn, N.Y.
Western States Import Co., Inc.	Newberry Park, Calif.

[13] Only those parts of bicycles classified in part 5C of schedule 7 in TSUS items 732.30-732.42.

Sam Rubin Bicycles	New York, N.Y.
Cycles Peugeot USA	Carlstadt, N.J.
Sears	Chicago, Ill.
Nissho Iwai	New York, N.Y.
Miyata Bicycles America, Inc.	Alcrove Village, Ill.
Panasonic Bicycle Sales Dept.	Secaucus, N.J.
Roadmaster	Olney, Ill.
K-Mart	Troy, Mich.
Rand International	Not available.

These importers include firms importing for their own sales, wholesale distributors importing to supply small independent bicycle dealers, and forwarders importing for the account of others.

The principal importers of parts of bicycles and of bicycle tires and tubes include the above-listed U.S. manufacturers and assemblers, bicycle wholesale distributors, and Shimano Sales Corp., Sun Valley, Calif.

U.S. exports

U.S. exports of these articles have been small. Tables 3–6 provide data on such exports. The principal market in 1984 for bicycles was Canada. The United Kingdom and Canada were the largest export markets for parts of bicycles. The United Kingdom was the largest market for bicycle tires and Canada for tubes in 1984.

Since the purpose of this legislation is to make U.S. rates of duty on bicycles and bicycle parts consistent with the rates maintained by the principal exporting nations, it is relevant to look at those foreign duty rates. Taiwan assesses a duty rate of 35 percent on bicycles (TSUS items 732.02–.26); 30 percent on frames and frame lugs (TSUS items 732.30–.34, 732.42); 15 percent on variable speed gear brakes, plastic handlebars, aluminum rims, and aluminum gear brakes (TSUS items 732.38–.42); and 30 percent on other parts (TSUS items 732.35–.42). In addition, Taiwan assesses duties on 105 percent of the c.i.f. (cost, insurance, and freight) value and charges a 4 percent harbor tax. Korea assesses a duty rate of 35 percent ad valorem in bicycles and 30 percent on frames and other parts, plus a 10 percent value-added tax. Japan assesses a duty rate of 4.8 percent on bicycles, frames, and other parts.

The principal exporters of bicycles are the U.S. manufacturers; the principal exporters of parts of bicycles are not known. Carlisle is the manufacturer of the few tires and tubes which are exported.

Apparent U.S. consumption

Tables 3–6 provide data on estimated U.S. consumption of bicycles, parts of bicycles, bicycle tires, and bicycle tubes. Estimated apparent U.S. consumption of bicycles decreased from 9.0 million units, valued at $680 million, in 1980 to 6.8 million units, valued at $590 million in 1982. It then increased to 10.5 million units, valued at $822 million, in 1984. The ratio of imports to consumption increased from 24 percent in 1980 to 45 percent in 1984.[14]

Estimated apparent U.S. consumption of parts of bicycles decreased irregularly from $227 million in 1980 to $172 million in 1982 and increased to $236 million in 1984. The ratio of imports to consumption ranged from 49 percent in 1982 to 58 percent in both 1981 and 1984.

Consumption of bicycle tires decreased from 24.0 million units in 1981 to 17.8 million in 1982, then increased to 27.7 million in 1983; it was 16.4 million annually from 78 percent in 1981 to 87 percent during January–July 1984.

Following similar trends, apparent U.S. consumption of tubes decreased from 49.9 million in 1981 to 24.7 million in 1982, increasing to 39.3 million in 1983. Consumption was 21.8 million during January–July 1984. The ratio of imports to consumption ranged from 85 percent in 1982 to 89 percent during January–July 1984.

Effect on revenue

Based on U.S. imports from column 1 sources in 1984, increasing the duty rate to 19 percent ad valorem would have increased customs duties collected by $45.0 million.

Technical comments

The column 1 rate of duty for a particular tariff item may not exceed the column 2 rate. Therefore, the column 2 duty rate under TSUS item 772.48, bicycle tires,

[14] When sidewalk bicycles are excluded from import data, the ratio of imports to consumption becomes 23 percent for 1980 and 42 percent for 1984.

would have to be increased to at least 19 percent from its present level of 10 percent, if this legislation were enacted.

The legislation as drafted does not specify its intended effect on the staged rate reductions and the LDDC concessions negotiated in the Tokyo round, although it is assumed no further staged reductions would be contemplated.

Section 1, paragraph (7), should read "9.2%" instead of "9.2¢".

Section 4 paragraph (2) is ambiguously worded. The new subparagraph would read "(E) bicycles and bicycle parts." However, it probably should read " . . . and bicycle parts in part 5C, schedule 7 of the Tariff Schedules of the United States," if the sponsor means those articles referred to as bicycle parts elsewhere in the legislation. There are other articles, such as chains, which are used as bicycle parts but are classified elsewhere in the tariff schedules; an unclear reference would create interpretative problems. If bicycle tires and tubes are intended to be covered in the new subparagraph E, these should also be enumerated as the rest of the bill refers to them separately from bicycle parts.

GATT considerations

The column 1 rates of duty in all of the TSUS items affected by this legislation were bound under Article II of the General Agreement on Tariffs and Trade (GATT). If any of these rates are increased by legislation, the required to pay compensation to, affected trading partners who are GATT members. This is also true if the legislation has the effect of nullifying the staged duty rate reductions negotiated under the Tokyo round of Multilateral Trade Negotiations. Finally, the elimination of the LDDC duty rates would be a further violation of our GATT obligations.

TABLE 1.—BICYCLES AND PARTS AND BICYCLES TIRES AND TUBES; U.S. RATES OF DUTY BY TSUS ITEMS

[Cents each; percent ad valorem]

TSUS item No.[1]	Description	Pre-MTN col. 1 rate of duty[2]	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
	Bicycles:										
	Having both wheels not over 19 inches in diameter:										
732.02	Valued not over $6.25 each	[3] 15%									30%
732.04	Valued over $6.25 each but not over $8.33⅓ each.	93.5¢	87¢	81¢	75¢	69¢	63¢	57¢	51¢	45¢	30%
732.06	Valued over $8.33⅓ each	[3] 11%									30%
	Having both wheels over 19 inches but not over 25 inches in diameter:										
732.8	Valued not over $10 each	[3]15%									30%
732.10	Valued over $10 but not over $13.33⅓ each.	$1.50	$1.38	$1.27	$1.16	$1.05	93¢	82¢	71¢	60¢	30%
	Having both wheels over 25 inches in diameter:	[3] 11%									30%
	If weighing less than 36 pounds complete without accessories and not designed for use with tires having a cross sectional diameter exceeding 1.625 inches:										
732.12	Valued over $13.33⅓ each	[3] 11%									30%
732.14	Valued not over $8.33⅓ each	[3] 11%									30%
732.16	Valued over $8.33⅓ but not over $16.66⅔ each.	93¢	89¢	86¢	82¢	79¢	75¢	72¢	68¢	65¢	30%
732.18	Valued over $16.66⅔ each	[3] 5.5%									30%
	Other:										
732.21	Valued not over $16.66⅔ each.	15%	14%	13.1%	12.1%	11.1%	10.1%	9.2%	8.2%	7.2%	30%
732.24	Valued over $16.66⅔ each	[3] 11%									30%
732.26	Other	[3] 15%									30%

TABLE 1.—BICYCLES AND PARTS AND BICYCLES TIRES AND TUBES; U.S. RATES OF DUTY BY TSUS ITEMS—Continued

(Cents each; percent ad valorem)

TSUS item No.[1]	Description	Pre-MTN col. 1 rate of duty[2]	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
	Parts of bicycles:										
	Frames:										
732.30	Valued not over $4.16⅔ each	[3] 15%	14%	13.1%	12.1%	11.1%	10.1%	9.2%	8.2%	7.2%	30%
732.32	Valued over $4.16⅔ each but not over $8.33⅓ each.	62.5¢	59¢	56¢	52¢	49¢	46¢	42¢	39¢	36¢	30%
732.34	Valued over $8.33⅓ each	7.5%	7.2%	6.9%	6.5%	6.2%	5.9%	5.6%	5.2%	4.9%	30%
732.35A	Coaster brakes designed for single-speed bicycles.	15%	13.9%	12.8%	11.6%	10.5%	9.4%	8.3%	7.1%	6%	30%
732.38A	Three speed hubs whether or not incorporating a coaster brake; caliper brakes; multiple free-wheel sprockets.	15%	13.9%	12.8%	11.6%	10.5%	9.4%	8.3%	7.1%	6%	30%
732.41	Variable speed hubs (except three speed) with internal gear-changing mechanisms, whether or not incorporating a coaster brake; derailleurs; drum brakes; click twist grips; click stick levers; cotterless type crank sets; rims; parts of all the foregoing and parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for the assembly (with other parts) into the frame and fork of one bicycle.	15%	13.9%	12.8%	11.6%	10.5%	9.4%	8.3%	7.1%	6%	30%
732.42	Other parts of bicycles	15%	15%	15%	14.2%	13.3%	12.5%	11.7%	10.8%	10%	30%
772.48	Pneumatic bicycle tires of rubber or plastics.	[3] 5%									10%
772.57	Bicycle tubes of rubber or plastics.	[3] 15%									30%

[1] The designation "A" indicates that the item is currently designated as an eligible article for duty-free treatment under the U.S. Generalized System of Preferences and that all beneficiary developing countries are eligible for the GSP.
[2] Rate effective prior to Jan. 1, 1980.
[3] Rate not modified in the Tokyo round of Multilateral Trade Negotiations.

TABLE 2.—BICYCLE PARTS, BICYCLE TIRES AND TUBES, AND BICYCLES: U.S. RATES OF DUTY, BY HARMONIZED SYSTEM (HS) COMMODITY CODE NUMBER AS IT RELATES TO TSUS ITEMS(S)

(Percent ad valorem)

TSUS item No.	HS commodity code No.	HS product description	Column 1 (General) rate of duty
732.02	8712.00.10	Bicycles having both wheels not over 65cm. in diameter	11%
732.04	8712.00.10	Bicycles having both wheels not over 65cm. in diameter	11%
732.06	8712.00.10	Bicycles having both wheels not over 65cm. in diameter	11%
732.08	8712.00.10	Bicycles having both wheels not over 65cm. in diameter	11%
732.10	8712.00.10	Bicycles having both wheels not over 65cm. in diameter	11%
732.12	8712.00.10	Bicycles having both wheels not over 65cm. in diameter	11%

TABLE 2.—BICYCLE PARTS, BICYCLE TIRES AND TUBES, AND BICYCLES: U.S. RATES OF DUTY, BY HARMONIZED SYSTEM (HS) COMMODITY CODE NUMBER AS IT RELATES TO TSUS ITEMS(S)—Continued

[Percent ad valorem]

TSUS item No.	HS commodity code No.	HS product description	Column 1 (General) rate of duty
		Bicycles having both wheels not over 65cm. in diameter:	
732.14	8712.00.20	If weighing less than 16.3kg	5.5%
732.16	8712.00.20	If weighing less than 16.3kg	5.5%
732.18	8712.00.20	If weighing less than 16.3kg	5.5%
732.21	8712.00.30	If weighing less than 16.3kg	11%
732.24	8712.00.30	If weighing 16.3kg or more	11%
732.26	8712.00.40	Other bicycles	15%
		Parts and accessories of vehicles of heading 8712:	
732.30	8714.91.10	Frames	4.9%
732.32	8714.91.10	Frames	4.9%
732.34	8714.91.10	Frames	4.9%
732.35	8714.94.30	Coaster brakes designed for single-speed bicycles	[1] 6%
732.38	8714.93.10	Three-speed hubs, other than coaster braking hubs and bub brakes	[1] 6%
732.38	8714.93.60	Multiple free-wheel sprockets	[1] 6%
732.38	8714.94.20	Caliper brakes	[1] 6%
732.38	8714.94.30	Three-speed hubs, coaster braking hubs and hub brakes	[1] 6%
732.41	8714.91.50	Sets of steel tubing	[1] 6%
732.41	8714.92.10	Wheel rims	[1] 6%
732.41	8714.93.20	Variable speed hubs (except three speed), other than coaster braking hubs and hub brakes, with internal gear changing mechanisms	[1] 6%
732.41	8714.94.10	Drums brakes	[1] 6%
732.41	8714.94.30	Other brakes and parts thereof	[1] 6%
732.41	8714.96.50	Cotterless-type crank sets and parts thereof	[1] 6%
732.41	8714.99.10	Click twist grips and click stick levers	[1] 6%
732.41	8714.99.50	Derailleurs and parts thereof	6%
732.42	8714.91.90	Other frames and forks and parts thereof	10%
732.42	8714.92.50	Spokes	10%
732.42	8714.93.30	Other hubs	10%
732.42	8714.93.80	Other free-wheel sprockets	10%
732.42	8714.94.30	Other coaster brakes and parts thereof	[1] 6%
732.42	8714.94.50	Other brakes . . . and parts thereof	[1] 10%
732.42	8714.95.00	Saddles	[1] 10%
732.42	8714.96.10	Pedals and parts thereof	[1] 10%
732.42	8714.96.90	Other crank-gear and parts thereof	[1] 10%
739.42	8714.99.90	Other parts	[1] 10%

TABLE 2.—BICYCLE PARTS, BICYCLE TIRES AND TUBES, AND BICYCLES: U.S. RATES OF DUTY, BY HARMONIZED SYSTEM (HS) COMMODITY CODE NUMBER AS IT RELATES TO TSUS ITEMS(S)—Continued

[Percent ad valorem]

TSUS item No.	HS commodity code No.	HS product description	Column 1 (General) rate of duty
772.48	4011.50.00	New pneumatic tires, of rubber, of a kind used on bicycles	5%
772.48	4012.20.50	Other used pneumatic tires, of rubber	4%
772.57	4013.20.00	Inner tires, of rubber, of a kind used on bicycles	15%

[1] Duty on certain bicycle parts suspended. See chapter 99.

TABLE 3.—BICYCLES: U.S. PRODUCERS' SHIPMENTS, EXPORTS OF DOMESTIC MERCHANDISE, IMPORTS FOR CONSUMPTION, AND APPARENT CONSUMPTION, 1980–84

Period	Producers' shipments	Exports [1]	Imports [1]	Apparent consumption	Ratio (percent) of imports to consumption [2]
	Quantity (1,000 units)				
1980	[3] 6,941	92	2,155	9,004	24 (23)
1981	[3] 6,832	91	2,224	8,965	25 (24)
1982	[3] 5,170	50	1,726	6,846	25 (23)
1983	[3] 6,271	34	3,034	9,271	33 (30)
1984	[3] 5,863	31	4,704	10,536	45 (42)
	Value (1,000 units)				
1980	[4] 535,000	5,326	150,677	680,351	22 (22)
1981	[4] 560,000	5,934	184,632	738,698	25 (25)
1982	[4] 470,000	3,690	123,285	589,595	21 (20)
1983	[4] 565,000	2,146	199,233	726,087	28 (25)
1984	[4] 530,000	2,167	294,586	822,419	36 (35)

[1] Include data on sidewalk bicycles.

[2] Data in parenthesis show the ratio of imports to consumption when imports of sidewalk bicycles are subtracted from total imports and from apparent U.S. consumption.

[3] Estimated by the Bicycle Manufacturers Association of America, Inc., and do not include data on sidewalk bicycles. An industry source estimated that the market for sidewalk bicycles may have exceeded a million units annually in 1983.

[4] Estimated by the staff of the U.S. International Trade Commission.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

TABLE 4.—CERTAIN PARTS OF BICYCLES: [1] U.S. PRODUCERS' SHIPMENTS, EXPORTS OF DOMESTIC MERCHANDISE, IMPORTS FOR CONSUMPTION, AND APPARENT CONSUMPTION, 1980–84

[Dollar amounts in millions]

Period	Producers' shipments [2]	Exports	Imports	Apparent consumption	Ratio of imports to consumption (percent)
1980	110,000	13,512	130,419	226,907	57
1981	115,000	13,923	142,092	243,169	58
1982	95,000	7,889	85,112	172,223	49
1983	115,000	10,445	130,138	234,683	55
1984	110,000	10,091	136,242	236,151	58

[1] Only those parts of bicycles classified in Schedule 7, part 5, subpart C, which covers TSUS items 732.30–732.42.
[2] Estimated by the staff of the U.S. International Trade Commission.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

TABLE 5.—BICYCLES TIRES: U.S. PRODUCTION, EXPORTS OF DOMESTIC MERCHANDISE, IMPORTS FOR CONSUMPTION, AND APPARENT CONSUMPTION, 1981–83, JANUARY–JULY 1984

[In thousands of units]

Period	Production [1]	Exports	Imports	Apparent consumption	Ratio of imports to consumption (percent)
1981	5,341	46	18,666	23,961	78
1982	3,299	11	14,521	17,809	82
1983	4,372	117	23,403	27,658	85
1984: January–July	[3] 2,171	[3] 1	[3] 14,250	16,420	87

[1] Compiled from data supplied to the U.S. International Trade Commission by Carlisle Tire & Rubber Co.
[2] Carlisle expects to produce 2,765,000 tires in 1984.
[3] January–June 1984 only available.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

TABLE 6.—BICYCLES TUBES: U.S. PRODUCTION, EXPORTS OF DOMESTIC MERCHANDISE, IMPORTS FOR CONSUMPTION, AND APPARENT CONSUMPTION, 1981–83, JANUARY–JULY 1984

[In thousands of units]

Period	Production [1]	Exports	Imports	Apparent consumption	Ratio of imports to consumption (percent)
1981	6,581	71	43,419	49,929	87
1982	3,656	52	21,101	24,705	85
1983	5,158	29	34,202	39,331	87
1984: January–July	[2] 2,500	[3] 2	[3] 19,278	21,776	89

[1] Compiled from data supplied to the U.S. International Trade Commission by Carlisle Tire & Rubber Co.
[2] Carlisle expects to produce 3,242,000 tires in 1984.
[3] January–June 1984 only available.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

TABLE 7.—BICYCLES: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 units)				
Taiwan	1,074	1,193	1,105	2,213	3,673
Japan	620	661	341	539	584
France	77	62	74	82	119
Republic of Korea	123	131	113	108	232
Italy	3	14	10	21	15

TABLE 7.—BICYCLES: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84—Continued

Source	1980	1981	1982	1983	1984
Poland	161	111	40	19	25
Hong Kong	13	7	1	3	15
Austria	6	7	4	6	4
All other	77	38	39	45	36
Total	2,155	2,224	1,726	3,034	4,704
			(1,000 dollars)		
Taiwan	58,239	73,405	61,897	117,644	189,884
Japan	59,581	81,430	38,437	60,068	71,494
France	11,076	10,860	9,657	9,025	14,086
Republic of Korea	5.609	7,483	6,090	5,412	11,408
Italy	657	1,353	2,081	2,330	3,920
Poland	4,289	3,369	1,227	532	662
Hong Kong	1,036	677	36	198	555
Austria	1,068	1,043	789	776	511
All other	9,122	5.013	3,071	3,249	2,967
Total	150,677	184,632	123,285	199,233	294,586
			Unit value		
Taiwan	$54.22	$61.55	$56.01	$53.17	$51.69
Japan	96.08	123.17	112.75	111.51	122.32
France	144.43	174.50	131.22	110.08	118.55
Republic of Korea	45.61	56.93	53.83	50.12	49.23
Italy	206.35	100.10	215.52	112.23	254.40
Poland	26.57	30.40	30.68	28.44	26.98
Hong Kong	76.79	90.79	66.03	68.88	36.29
Austria	176.68	152.43	185.15	129.27	114.94
All other	118.59	130.75	79.29	72.62	57.12
Average	69.92	83.01	71.43	65.66	62.62

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 8.—CERTAIN PARTS OF BICYCLES: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

[In thousands of dollars]

Source	1980	1981	1982	1983	1984
Japan	82,839	94,330	51,827	78,222	73,004
Taiwan	12,031	13,976	12,978	25.809	30,671
Italy	5,669	8,353	8,914	9,447	12,321
France	8,976	6,681	3,041	5,571	7,613
Singapore	3,329	4,512	1,122	3,672	4,043
West Germany	4,434	3,290	2,381	1,506	2,571
United Kingdom	3,267	2,602	1,058	2,131	1,807
Belgium	805	355	494	902	1,173
All other	7,915	7,352	2,741	2,866	3,039
Total	130,419	142,092	85,112	130,128	136,242

[1] Only those parts of bicycles classified in Schedule 7, part 5, subpart C, which covers TSUS items 732.30–732.42.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 9.—BICYCLES TIRES [1]: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (units)				
Taiwan	11,370,229	9,118,297	8,994,412	13,949,044	13,525,924
Japan	1,956,572	1,956,498	1,747,506	2,703,014	2,666,767
Republic of Korea	8,183,311	6,863,476	3,534,277	6,422,121	5,199,411
Italy	82,094	115,182	110,460	125,491	162,059
France	133,431	196,922	79,298	146,664	112,300
United Kingdom	200,491	119,060	24,791	21,426	15,677
Hong Kong	38,321	7,430	1,700	0	33,631
Belgium	15,322	1,175	244	0	51,535
Thailand	0	0	0	0	32,500
Netherlands	1,215	11,500	12,975	13,242	11,104
All other	293,119	276,300	15,561	21,962	18,487
Total imports	22,274,105	18,665,840	13,521,224	23,402,964	21,829,395
	Value (1,000 dollars)				
Taiwan	17,058	15,121	13,019	19,040	18,396
Japan	4,794	6,276	4,463	6,478	6,953
Republic of Korea	11,089	10,449	5,171	8,181	6,787
Italy	754	985	870	980	1,271
France	532	1,022	545	584	654
United Kingdom	426	333	70	60	99
Hong Kong	57	12	3	0	59
Belgium	39	4	3	0	58
Thailand	0	0	0	0	52
Netherlands	3	26	27	66	32
All other	407	530	43	93	73
Total imports	35,159	34,758	24,214	35,482	34,434
	Value (per unit)				
Taiwan	$1.50	$1.66	$1.45	$1.36	$1.36
Japan	2.45	3.21	2.55	2.40	2.61
Republic of Korea	1.36	1.52	1.46	1.27	1.31
Italy	9.19	8.55	7.88	7.81	7.84
France	3.99	5.19	6.88	3.98	5.83
United Kingdom	2.13	2.80	2.81	2.81	6.34
Hong Kong	1.48	1.59	1.71	.....	1.74
Belgium	2.53	3.31	10.38	.....	1.13
Thailand	.....	.....	.....	.....	1.60
Netherlands	2.65	2.24	2.08	4.97	2.86
All other	1.39	1.92	2.78	4.21	3.95
Average	1.58	1.86	1.67	1.52	1.58

[1] TSUS item 772.48.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 10.—BICYCLES TIRE TUBES [1]: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1981	1983	1984
	Quantity (units)				
Taiwan	22,356,067	33,616,673	15,225,813	24,825,403	21,282,618
Republic of Korea	10,396,022	7,928,289	5,024,350	8,356,885	7,367,639
Japan	808,497	666,023	679,064	891,423	1,244,957
France	344,127	305,980	59,388	75,215	77,390
Hong Kong	160,377	11,100	5,420	0	155,400

TABLE 10.—BICYCLES TIRE TUBES [1]: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84—Continued

Source	1980	1981	1981	1983	1984
Italy	1,599	4,642	8,664	36,239	12,849
United Kingdom	32,648	31,925	13,268	9,455	16,027
Thailand	0	0	0	0	32,500
Netherlands	1,650	19,000	24,260	0	15,200
Mexico	0	0	500	2,000	1,000
All other	401,130	835,245	59,800	5,218	910
Total imports	34,502,117	43,418,877	21,100,527	34,201,838	30,206,490
	Value (1,000 dollars)				
Taiwan	16,076	11,333	10,560	15,220	12,684
Republic of Korea	7,586	6,491	3,997	5,564	4,509
Japan	776	718	677	859	1,267
France	386	415	99	106	111
Hong Kong	115	8	4	0	99
Italy	15	20	45	90	44
United Kingdom	45	37	18	10	26
Thailand	0	0	0	0	20
Netherlands	2	12	13	0	16
Mexico	0	0	2	8	3
All other	241	554	86	5	3
Total imports	25,242	19,591	15,500	21,862	18,784
	Unit value (per unit)				
Taiwan	$0.72	$0.34	$0.69	$0.61	$0.60
Republic of Korea	.73	.82	.80	.67	.61
Japan	.96	1.08	1.00	.96	1.02
France	1.12	1.36	1.67	1.41	1.43
Hong Kong	.72	.73	.71	.....	.64
Italy	9.64	4.35	5.19	2.48	3.46
United Kingdom	1.36	1.17	1.34	1.05	1.64
Thailand	.....	.....	.....	.....	.61
Netherlands	1.33	.64	.52	.....	1.06
Mexico	.....	.....	4.10	3.95	3.20
All other	.60	.66	1.44	.98	3.78
Average	.73	.45	.73	.64	.62

[1] TSUS item 772.48.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 11.—BICYCLES, PARTS OF BICYCLES, BICYCLE TIRES, AND BICYCLE TUBES: U.S. IMPORTS FOR CONSUMPTION, BY TSUS ITEM, FROM ANY SOURCE SUPPLYING 10 PERCENT OR MORE OF EACH TSUS ITEM, 1982–84

[In thousands of dollars]

TSUS and source	1982	1983	1984
732.02:			
Taiwan	1	3	61
Total	1	3	73
732.04:			
Taiwan	.....	7	126
Spain	.....	5	(1)
Total	.....	11	154

TABLE 11.—BICYCLES, PARTS OF BICYCLES, BICYCLE TIRES, AND BICYCLE TUBES: U.S. IMPORTS FOR CONSUMPTION, BY TSUS ITEM, FROM ANY SOURCE SUPPLYING 10 PERCENT OR MORE OF EACH TSUS ITEM, 1982–84—Continued

[In thousands of dollars]

TSUS and source	1982	1983	1984
732.06:			
Taiwan	4,840	9,531	13,992
Republic of Korea	712	(1)	(1)
Total	6,672	10,893	15,497
732.08:			
Taiwan			105
United Kingdom	1		
Total	1		105
732.10:			
Taiwan		107	429
Japan	3	(1)	
Total	3	107	429
732.12:			
Taiwan	20,874	44,096	57,534
Japan	3,474	6,329	(1)
Total	27,635	52,768	68,245
732.14:			
Taiwan	(2)	74	13
Republic of Korea			6
France	2		
Total	3	74	19
732.16:			
Taiwan	60		46
Japan		80	
Republic of Korea	42		
Total	102	80	46
732.18:			
Taiwan	32,654	57,705	99,950
Japan	34,100	48,909	61,133
France	9,548	(1)	(1)
Total	84,724	124,466	185,511
732.21:			
Japan	(2)		27
Taiwan			22
Italy		(2)	
Total	(2)	(2)	50
732.24:			
Taiwan	3,466	5,848	17,089
Japan	443	4,644	5,605
Total	4,097	10,703	23,704
732.26:			
Taiwan	(1)	61	517
Italy	23	23	(1)
Japan	7	(1)	(1)
France	5	(1)	(1)

TABLE 11.—BICYCLES, PARTS OF BICYCLES, BICYCLE TIRES, AND BICYCLE TUBES: U.S. IMPORTS FOR CONSUMPTION, BY TSUS ITEM, FROM ANY SOURCE SUPPLYING 10 PERCENT OR MORE OF EACH TSUS ITEM, 1982–84—Continued

[In thousands of dollars]

TSUS and source	1982	1983	1984
Total	48	121	754
732.30:			
Taiwan	16	30	64
Republic of Korea	(1)		28
Japan	37	18	(1)
France		12	
Total	53	61	107
732.32:			
Taiwan	112	699	756
Japan	22		(1)
Total	139	719	765
732.34:			
Taiwan	395	851	2,025
Italy	1,015	1,287	1,809
Japan	1,393	1,680	1,798
United Kingdom	363	(1)	(1)
Total	3,433	4,358	6,815
732.35:			
Japan	6,648	9,309	9,304
Singapore	(1)	(1)	1,345
Total	8,508	11,034	11,071
732.38:			
Japan	11,803	16,223	15,117
Taiwan	1,799	3,006	3,997
Total	15,827	22,585	23,118
732.41:			
Japan	16,093	23,943	21,544
France	(1)	(1)	3,454
Italy	2,358	(1)	(1)
Total	22,275	32,877	32,481
732.42:			
Japan	15,831	27,049	25,231
Taiwan	9,938	19,316	22,020
Italy	4,373	(1)	6,406
Total	34,873	58,492	61,884
772.48:			
Taiwan	13,019	19,040	18,396
Japan	4,463	6,478	6,953
Republic of Korea	5,171	8,181	6,787
Total	24,214	35,482	34,434
772.57:			
Taiwan	10,560	15,220	12,684
Republic of Korea	3,997	5,564	4,509
Total	15,500	21,862	18,784

[1] County supplied less than 10 percent of total. [2] Less than $500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 2226, a bill "To amend the Tariff Schedules of the United States to provide for rates of duty on imported bicycles and bicycle parts consistent with those rates of duty maintained by the principal exporting nations of bicycles and bicycle parts to the United States, and for other purposes."

This Department opposes enactment of H.R. 2226.

H.R. 2226 would raise the column 1 (MFN) rates of duty on all bicycles, bicycle parts, and bicycle tires and tubes to 19 percent ad valorem. The column 2 (statutory) duty is not specifically changed by this legislation; however, enactment would necessitate raising the column 2 rate on bicycle tires, Tariff Schedules of the United States (TSUS) item 772.48, from 10 percent to at least 19 percent, since column 1 rates must be less than or equal to column 2 rates in all tariff categories. The LDDC rates are unaffected by this legislation.

H.R. 2226 also provides for continuation of the present duty suspension on certain bicycle parts and for the exclusion of bicycles and bicycle parts from eligibility for duty-free treatment under the U.S. Generalized System of Preferences (GSP).

The current duty status of bicycles and bicycle parts is presented in the enclosed table. In 1984, 63 percent of imported bicycles were dutiable at 5.5 percent and 36 percent were dutiable at 11.0 percent. These imports were not subject to concessions made during the Tokyo Round of Multilateral Trade Negotiations (MTN). The remaining one percent of bicycle imports entered under a variety of TSUS item numbers and was subject to reduced duties as a result of concessions made during the MTN.

Thirty-three percent of all bicycle parts imports enter at 8.3 percent, and 31 percent enter at 11.7 percent. Bicycle tires, which account for 17 percent of parts imports, are subject to a 5.0 percent tariff; bicycle tubes, which account for 9 percent of parts imports, enter at 15.0 percent. Most bicycle parts are subject to MTN duty reductions, except tires and tubes. The current duty suspension applies to approximately 25 percent of bicycle parts imports. Only imports of coaster brakes, three-speed hubs, caliper brakes, and multiple free-wheel sprockets are eligible for duty-free treatment under the GSP.

This Department is opposed to unilateral increases in tariffs such as provided for in H.R. 2226. First, such increases have the effect of circumventing existing procedures for which Congress has provided. Section 201 of the Trade Act of 1974 provides a means by which domestic industries that believe they have been injured or threatened with injury by rising imports may petition the United States International Trade Commission (USITC) for relief. Where unfair foreign trade practices are involved, the antidumping and countervailing duty laws administered by this Department and the USITC provide adequate procedures for relief. Under these laws, additional duties may be imposed on imported products if they are being unfairly subsidized or offered for sale in the United States at less than fair value.

Second, a recommendation by the USITC that relief be granted under section 201, and the imposition of additional duties under the antidumping and countervailing duty laws, must be based upon a finding of serious injury or threat thereof to the affected industry, and are thus consistent with United States international obligations under the General Agreement on Tariffs and Trade (GATT), which requires a finding of injury to a domestic industry before import restrictions can be imposed. Because H.R. 2226 does not contain a requirement that injury be established, its enactment would be inconsistent with our GATT obligations, and could result in requests by our trading partners for compensation, or in retaliatory action against the United States.

In this context, we note that members of the bicycle industry brought an antidumping action against Korea and Taiwan in 1982. The USITC found that the U.S. bicycle industry was not injured nor threatened with injury by reason of imported bicycles from either Korea or Taiwan.

Finally, unilateral tariff increases are contrary to U.S. trade policy objectives. Such measures undermine our efforts to prevent similar actions by other countries and are contrary to this Administration's commitment to avoid protectionist measures and reduce existing barriers to trade. In addition, tariff increases of this nature

result in increased costs to consumers, and may undermine the competitive position of industries other than those benefiting from the increased import restrictions.

We estimate that, had H.R. 2226 been in effect during 1984, revenue gain would have been between $24 million and $37 million, assuming diminished demand; and $46 million assuming unchanged demand. Enactment of H.R. 2226 would have no effect on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS, *General Counsel.*

Enclosure.

BICYCLES AND BICYCLE PARTS TARIFF TREATMENT

TSUS	1985 col. 1	Final MTN	Col. 2	GSP
Bikes:				
73206	11.0	11.0	30.0	N
73212	11.0	11.0	30.0	N
73218	5.5	5.5	30.0	N
73224	11.0	11.0	30.0	N
Parts:				
65215	4.7	4.2	40.0	Y
65339 [1]	10.5	7.6	45.0	[2] Y
71193	19.6	17.0	110.0	N
73234	5.6	4.9	30.0	N
73235 [1]	8.3	6.0	30.0	Y
73238 [1]	8.3	6.0	30.0	Y
73241 [1]	8.3	6.0	30.0	N
73242 [1]	11.7	10.0	30.0	N
77248	5.0	5.0	10.0	N
77257	15.0	15.0	30.0	N

[1] Certain parts within these items are subject to duty-free entry as provided for in items 912.05 and 912.10 in the Appendix to the Tariff Schedules of the United States.
[2] Except Taiwan.

A. T. NAULT & SON,
Manchester, NH, June 14, 1985.

DAN ROSTENKOWSKI,
Rayburn House Office Building,
Washington, DC.

DEAR MR. ROSTENKOWSKI: We are writing this letter to you concerning our opposition to HR 2226. As you are well aware a similar bill (HR 5474) was defeated last year and we feel this new bill should also be defeated.

The bicycle industry in the United States consists of two very different sectons. First, the small privately owned bicycle dealer. They, for the most part, deal in very high quality bicycles, most of which are imported. These bicycles are not toys, but a very precisely manufactured sporting machine.

The second section consists of the many, many, mass discount retail outlets. The American manufactured bicycles sold by these outlets are of a different quality, and thus, a much lower price. These bicycles are designed to have a short term useful life or be replaced after a couple of years of use, in other words, not a quality piece of sporting equipment, but a toy.

Private bicycle dealers are happy with this arrangement. We do not compete! The person who wants a serious piece of precision sporting equipment, knows where to buy it also.

If the American manufacturers who support this bill really wanted to compete, they have the resources available to develop bicycle lines which would be competitive. There already are some very competitive American lines, such as Schwinn Corp. of Chicago, Ill., Trek of Madison, Wis., and Cannondale Corp. of Hartford, Conn., just to name a few. Let them compete in this area by research, development and investment, rather than promoting to erect trade barriers. Let them develop

these high quality lines and export them to combat the imports. Ask them why these countries do not now import their current products!

If passed, this bill would not help the American manufacturers (who already are among the largest bicycle manufacturers in the world—Huffy, Murray—whose products sell more bikes in the United States than do imports.) This bill would hurt the private small dealer, and in turn mostly hurt the American consumer who would be forced to pay more for the product they want. The consumer would not go buy a bicycle from a different source, they would pay more to get what they wanted and know what is quality.

In closing, as we have stated what this issue involves, two non-competing products. If this scares the American manufacturers, let's encourage them to develop lines to compete with the imported products, which if they did, would be accepted by the small private bicycle dealer with open arms.

Sincerely,

DAVID M. EDMONDS,
DONNA J. NAULT,

Managers.

STATEMENT OF MARJORIE J. RILEY, OWNER, ALAMEDA BICYCLE

As a small business involved in the sale and repair of bicycles, we are opposed to H.R. 2226 on the grounds that it unfairly increases tariffs against imported bicycles and bicycle parts, thereby granting huge cost advantages to large mass merchandisers which deal in already low priced bicycles.

STATEMENT

For 15 years we have been the proprietors of Alameda Bicycles at 1522 Park St. in Alameda, California. We are a small business employing 5 young men and women. Like most small bicycle businesses, we sell imported bicycles mainly because they offer a high quality-to-price ratio over those produced in the U.S. H.R. 2226 would add 19% to the cost of these bicycles. In addition, we small bike dealers offer a complete repair service . . . something never provided by mass merchandisers, who are interested only in the first sale. H.R. 2226 would go a long way toward shutting down the small dealer, and all the extra services he can offer.

If H.R. 2226 was implemented to aid the consumer in his search for an improved vehicle, then we would consider it an expensive, but necessary step to better bicycling. But no, this proposal is simply a means the mass merchandisers have come up with to eliminate the small bicycle dealer and have the whole pie to themselves.

Bicycling is good for America. It has brought millions out of the home and into the fresh air for healthy bodies and peace of mind. There is absolutely no reason to disrupt this beneficial trend just to increase profits for the few large corporations while eliminating many small "Mom and Pop" shops. We urgently recommend killing H.R. 2226 before it kills us.

AMERICAN RETAIL FEDERATION,
Washington, DC, June 13, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: This is in response to the Trade Subcommittee's request for written statements on H.R. 2226, a bill that would amend Tariff Schedules to significantly increase duties on imported bicycles and bicycle parts.

The American Retail Federation which represents the fifty state retail associations, and thirty national retail trade associations is seriously concerned with the impact of this proposed legislation on the consumer market.

The proposed duty increase on popular ten-speed racing bicycles is in excess of 300 percent. In order for retailers to maintain their current markups, they would have to increase their primary selling prices anywhere from $15 to $80 per bicycle. Since bicycle sales are very price sensitive, an increase of even $15 can be expected to significantly reduce sales. It shouild be noted that the price increases would be passed on to the consumer without any commensurate increase in quality.

The proposed duty increase on bicycle parts would also result in significant price increases on domestically manufactured bicycles and those assembled domestically from imported parts.

The domestic bicycle industry is dominated by a relatively small number of companies, all of which import some bicycles and/or bicycle parts. Any import relief for the domestic bicycle industry, through increased duties or otherwise, should be predicated upon a showing that the industry is suffering or is threatened with serious injury substantially caused (not less than any other cause) by increasing imports. That test is consistent with Section 201 of the Trade Act of 1974 which provides a forum for an industry seeking relief from increasing imports.

In view of the above, the American Retail Federation respectfully requests that an in-depth examination of the domestic bicycle industry, and of the bill's impact on consumers and other affected parties, be conducted prior to any action on H.R. 2226.

Sincerely,

WILLIAM KAY DAINES,
Executive Vice President.

BENT'S SCHWINN CYCLERY,
Lakeland, FL, June 21, 1985.

Hon. SAM M. GIBBONS,
Chairman, Ways and Means Committee, Subcommittee on Trade, House of Representatives, Washington, DC.

DEAR SIR: I, as an independent bicycle dealer, am extremely concerned with Bill H.R. 2226 which proposes to raise the rate of duty on bicycles and bicycle parts to a straight 19 percent. This legislation would only penalize the independent bicycle dealer (IBD) to the advantage of the mass merchant. With over 800 IBD's across the country, employing on the average four persons, the Bill will adversly affect the livelihoods of a substantial working group.

The domestic bicycle manufacturing business is comprised of three members: Huffy, Murray, and Roadmaster. Collectively these three companies have formed a trade/lobby organization known as Bicycle Manufacturing Association (BMA) which is responsible for instigating H.R. 2226. Existing in this country are two separate and clearly distinct channels of bicycle trade: the independent bicycle dealer (IBD) channel and the mass merchant channel. The IBD channel sells approximately 30 percent of all the bicycles, the majority of which are imported, sold in this country. The mass merchants and discount stores, supplied primarily by BMA, sell approximately 70 percent of the bicycles sold in this country. Clearly it is hard to accept the BMA premise that the IBD has an unfair market-place advantage in this country!

It must be noted that the BMA supplies most of the mass merchants while supplying very few IBD's, why? The IBD is typically a small, family owned specialty store that sells medium to high quality bicycles in a fully assembled condition. Most IBD customers are sophisticated consumers that demand specialized, high-tech quality products requiring individualized set-up and fitting. The mass merchants and discount stores, however, sell their products through extensive advertising of "sale" prices on a regular basis. Accordingly, their customers' primary consideration is price, with little regard for the relative low-quality of the merchandise or the fact that it is typically sold unasembled in the box.

It is quite clear that the IBD customer and the discount store customer are two distinctly different consumers who will not often cross over to the opposing channel to make a purchase. It is then unjust for the IBD consumer to be penalized by paying an extra 19 percent tariff that is not paid by the mass merchant consumer.

In summary, the majority of bicycle imports go into the independent dealer channel of trade and in no way, shape, or form do they directly threaten or harm the mass merchant channel which is supplied by the BMA. Therefore, the primary effect of H.R. 2226 will be to substantially reduce sales volume for the IBD, with a resultant hardship on all the consumers requiring a quality bicycle, or bicycle accessory. The BMA should up-grade their manufacturing capability to produce a quality product that will satisfy the demands of the free market-place as it now exists in this country.

I believe that H.R. 2226, if passed, would cause my business volume to drop abruptly, with a major strain on the balance sheet and the resultant elimination of at least one employee. I am confident that these problems will be typical of all of the 8000 independent bicycle dealers in this country.

I respectfully submit that H.R. 2226 is a bad piece of legislation that should be killed in committee. I am interested in your thoughts on this issue. Please send me minutes of the meeting during which this Bill is considered.

Very truly yours,

STEVEN G. BENT, *Owner.*

STATEMENT OF THE BICYCLE MANUFACTURERS ASSOCIATION OF AMERICA, INC.

SUMMARY

1. The Bicycle Manufacturers Association of America, Inc. ("BMA") urges enactment of H.R. 2226, a bill to amend the Tariff Schedules to increase the rate of duty on imported bicycles and bicycle parts to 19 percent ad valorem, a level which is more consistent with the rates of duty currently maintained by the principal nations exporting these articles to the United States (e.g., Taiwan maintains a 35 percent duty on imports of bicycles and a 30 percent duty on imports of most parts).

2. U.S. bicycle producers and their suppliers are suffering serious injury as a result of the dramatic escalation of imports, especially from Taiwan, and need this legislation to reverse this trend.

3. The extent of the injury to the domestic industry is reflected in the following import statistics.

Between 1979-1983, import penetration in the U.S. bicycle market increased from 17 to 30 percent of domestic consumption.

In 1984, imported bicycles captured 42 percent of the U.S. market. Through April 1985, the import market share increased to over 43 percent.

Imports of Taiwanese bicycles grew from 975,000 during 1982 to 3.2 million in 1984, a two-year growth of 230 percent. These imports now account for over 76 percent of total bicycle imports.

Total imports of bicycle parts grew from $126.1 million in 1982 to $189.5 million in 1984, a growth rate of 50 percent. Continued growth is also reflected in 1985, as imports of parts through April 1985 exceeded $65 million.

4. The health of the U.S. industry has deteroriated sharply as a result of these import trends.

Domestic shipments in 1984 were 32 percent below the level of 1979 and more than 6 percent below the level of 1979 and more than 6 percent below 1983 levels. Through April 1985, domestic shipments were down 10 percent over the same period one year ago.

Production worker employment in 1984 was down more than 18 percent below the level of 1983.

As a result of increased imports, the two largest U.S. producers of bicycles reported either decreased profits or actual losses on their bicycle operations.

5. Without legislation to halt these trends, the U.S. bicycle industry will not be able to compete with foreign producers, who are taking unfair advantage of the openness of the U.S. market.

STATEMENT

This statement is submitted on behalf of the Bicycle Manufacturers Association of America, Inc. ("BMA"), a nonprofit, voluntary trade association of domestic manufacturers, who manufacture more than 80 percent of the bicycles produced in the United States. This statement is presented on behalf of the three bicycle manufacturer members of BMA, as well as the accosiate members of BMA, who manufacture the components used in the production of bicycles. A list of BMA members and associate members is attached to this statement (see Appendix A).

BMA urges the Subcommittee to support H.R. 2226, introduced on April 25, 1985, by Congressman Bill Boner (D-Tenn.). H.R. 2226 would amend the Tariff Schedules of the United States to increase the rate of duty in imported bicycles and bicycle parts to 19 percent ad valorem, a level which the industry believes is more consistent with the rates of duty currently maintained by the principal nations exporting these articles to the United States.[1] Additionally, the bill would ensure that bicycles

[1] For example, Taiwan, by far the largest exporter of bicycles and a substantial exporter of bicycle parts to the United States maintain a 35 percent tariff on imports of bicycles and 30 percent tariff on imports of most bicycle parts.

and bicycle parts cannot benefit from duty-free treatment under the Generalized System of Preferences, and the bill would ensure that any items subject to duty suspension are not affected by the tariff increases contained in the legislation.

The U.S. bicycle industry and its suppliers are suffering serious injury as a result of the dramatic escalation of imports, especially from Taiwan. This serious injury will continue if action is not taken to restrain the flow of low-priced bicycles and bicycle parts into the U.S. market. Enactment of H.R. 2226 would go a long way toward reversing this adverse trend.

A review of recent import trends clearly demonstrates the import problem facing the domestic bicycle industry and its suppliers (see Appendix B). In 1982, bicycle imports accounted for 23 percent of the U.S. market, a sharp jump from the 1979 import penetration of 17 percent. In 1983, the situation worsened with imports dominating 30 percent of the U.S. market in that year. Indeed, the Taiwanese increased the volume of their imports from 976,000 units during 1982 to 1.9 million units during 1983. Significantly, imports from Taiwan accounted for 71 percent of total imports in that year. Moreoever, there is no relief in sight. Imports captured 42 percent of the domestic market in 1984, an excessive 12 percentage point increase in a brief one-year period. In terms of absolute volume, imports were more than 56 percent higher in 1984 than they were a year earlier, as Taiwan alone accounted for 77 percent of total imports. Furthermore, through April 1985, total imports accounted for over 43 percent of the domestic market, growing 20 percent over the same period one year ago.

Similar trends have characterized the components market, with the total value of imported bicycle parts increasing from $126.1 million in 1982 to $189.5 million in 1984. This constitutes a growth rate of 50 percent. Moreover, in the last two years, import penetration in this market has expanded sharply from an already strong 65 percent base to more than 75 percent of the parts consumed in 1984. Continued growth is also reflected in 1985 as imports of parts through April 1985 exceeded $65 million.

As a result of this dramatic escalation of imports, the health of the U.S. bicycle industry and its suppliers has deteriorated sharply. In 1984, 5.9 million bicycles were shipped by domestic manufacturers, a figure which was 32 percent below the level of 1979 and more than six percent below the 1983 level. This decline is especially noteworthy since the U.S. market for bicycles increased by more than 12 percent between 1983 and 1984; thus, absolutely all of the market growth, plus a portion of the market share previously held by U.S. producers, was taken by imports. Moreover, through April 1985, domestic shipments were down 10 percent over the same period one year ago.

Employment in this industry has also declined significantly as a result of these import trends. Production worker employment among bicycle manufacturers alone in 1983 was 20 percent below the level of 1981. Moreover, in 1984, the level of production worker employment was more than 18 percent below the level of 1983. Among U.S. parts producers, employment in 1984 was only half of what it was in 1980. The remaining 15,000 jobs in the bicycle and bicycle parts industries are threatened by a continuation of the current import surge.

The industry's financial performance has also been adversely affected by the recent import surge. A survey prepared by the U.S. International Trade Commission, even before the major import assault began in 1983, showed a net sales decline of 16 percent between 1980 and 1982, coupled with a decline in operating income from 6.4 percent in 1980 to 0.8 percent in 1981 and an operating loss of −1.6 percent in 1982. Although no additional industry-wide data are available, recent reports issued by the two largest (and only publicly-owned) U.S. bicycle manufacturers demonstrate that this bleak profit picture is continuing. For example, the largest U.S. producer reported that its total sales for the second half of 1984 were down about three percent, with fourth quarter 1984 sales down by seven percent and total corporate earnings in the quarter 40 percent below the level of the same quarter in 1983. Similarly, the second largest domestic bicycle manufacturer reported a pre-tax loss of $3.4 million on its bicycle operations in 1984, compared to pre-tax earnings of $6.6 million in 1983, as bicycle sales fell by 19 percent. This was the first yearly recorded loss by this company on its bicycle operations. Both companies acknowledge that low-priced bicycles imported from Taiwan are the principal cause of this declining profit picture.

The dramatic surge in imported bicycles and bicycle parts that began in 1983 shows every sign of continuing. BMA urges Congress to take the necessary steps to halt this trend. Among these steps must be the enactment of H.R. 2226 which, by increasing the duties on bicycles and bicycle components, will enable U.S. producers to compete with those foreign producers—especially Taiwanese manufacturers—who

seek to take unfair advantage of the openness of the U.S. market by flooding that market with low-priced imports. In restraining the escalation of imports, Congress will be helping an industry which provides a product that not only enhances the physical fitness of U.S. citizens, but also helps to conserve energy and preserve the environment—all important national goals.

APPENDIX A

BICYCLE MANUFACTURERS ASSOCIATION OF AMERICA, INC.

MEMBER ROSTER

Huffy Corporation, Post Office Box 1204, Dayton, Ohio 45401.
Roadmaster Corporation, Post Office Box 344, Olney, Illinois 62450.
Murray Ohio Manufacturing Co., Franklin Road, Brentwood, Tennessee 37027.

ASSOCIATE MEMBER ROSTER

Dia-Compe, Inc., Box 798, Fletcher, North Carolina 28732.
Excel, Inc., 9375 W. Chestnut Avenue, Franklin Park, Illinois 60131.
Fimecy, 3 Rue Bara, Levallois-Perret, France 92306.
Harris-Thomas Drop Forge Co., 1400 East First Street, Dayton, Ohio 45403.
Hunt-Wilde Corporation, 2835 Overpass Road, Tampa, Florida 66319.
Huret Et Ses Fils, 60 Avenue Felix Faure, 92000 Nanterre, Paris, France.
Mesinger Manufacturing Co., Inc., Durant Avenue, Bethel, Connecticut 06801.
Persons-Majestic Manufacturing Co., The Faulhaber Co., Subsidiary, 21-31 Hamilton Street, Monroeville, Ohio 44847.
Sate-Lite Manufacturing Co., 6220-30 Gross Point Road, Niles, Illinois 60648.
Shimano American Corporation, 205 Jefferson Road, Parsippany, New Jersey 07054.
Suntour USA, Inc., 10 Madison Road, Fairfield, New Jersey 07006.
Thun, Inc., Post Office Box 3159, Clarksville, Tennessee 37040.
Ti Sturmey-Archer of America, Inc., 1014 Carolina Drive, West Chicago, Illinois 60185.
Troxel Manufacturing Co., State Route 57, Moscow, Tennessee 38057.
Union Sils, Van de Loo & Co., Post Office Box 1540, D-5758 Fondenberg, West Germany.
Wald Manufacturing Co., Inc., Post Office Box 10, Maysville, Kentucky 41056.

APPENDIX B

BICYCLE STATISTICS (1975-85)

Year	Domestic shipments	Import shipments	Total shipments	Percent import to total	Taiwan shipments	Percent Taiwan shipments to total imports
1975	5,606,000	1,722,000	7,238,000	23.5	364,000	21.2
1976	6,177,000	1,653,000	7,830,000	21.1	566,000	34.2
1977	7,484,000	1,884,000	9,368,000	20.1	658,000	34.9
1978	7,492,000	1,872,000	9,365,000	20.0	780,000	41.6
1979	8,675,000	1,763,000	10,438,000	16.9	943,000	53.5
1980	6,942,000	2,048,000	8,990,000	22.8	1,005,000	49.1
1981	6,832,000	2,100,000	8,931,000	23.5	1,100,000	52.3
1982	5,070,000	1,551,000	6,621,000	23.4	976,000	62.9
1983	6,271,000	2,693,000	8,964,000	30.0	1,915,000	71.1
1984	5,863,000	4,206,000	10,069,000	41.8	3,227,000	76.7
January to April 1984	2,253,000	1,302,000	3,555,000	36.6	943,000	72.4
January to April 1985	2,030,000	1,556,000	3,586,000	43.4	1,189,000	76.4

BICYCLE TRANSIT AUTHORITY, INC.,
Durham, NC, June 18, 1985.

DAN ROSTENKOWSKI,
Rayburn House Office Building,
Washington, DC.

DEAR MR. DAN ROSTENKOWSKI: An inflationary protectionist bill H.R. 2226 has been introduced in the House and is up for consideration by the House Subcommittee on Trade. This bill would raise the duty on imported bicycles and parts from 5.5 percent to 19 percent. This would have an extremely deleterious impact on the competitiveness of our business and of independent bicycle stores across the country. By favoring domestic suppliers like Huffy and Murray and their mass merchant customers like Sears, K-Mart, Montgomery Wards, etc., the Congress would be supporting the overwhelming sales advantage 76-24 percent these outlets already possess.

We urge your negative vote on this inflationary protectionist bill.

Sincerely,

JOHN C.N. CHAPIN, *President.*

STATEMENT OF PEGGY SKONECKI, GOVERNMENT RELATIONS COORDINATOR, BICYCLE USA

SUMMARY

Bicycle USA, the national membership organization of bicyclists, opposes H.R. 2226. This bill proposes to increase tariffs on imported bicycles and bicycle parts to 19 percent. This rate represents a one-third to two-and-one-half times increase over existing duties. This artificial increase in the cost of bicycles will ultimately discourage their use for energy-efficient, non-polluting, economical, and healthful transportation and recreation. Such use offers considerable benefits for the general public as well as for individual cyclists and, therefore, should be encouraged. Bicycle USA urges the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, to vote against H.R. 2226 and other proposals to increase tariffs on imported bicycles and bicycle parts.

STATEMENT

During the past several years, bicycling has continued to grow steadily as a favorite American pastime. A study by the A.C. Nielsen Company estimated 1982 participation in bicycling at 72,155,000. Among sports participation, bicycling is second only to swimming. A survey of key staff people with major U.S. bicycling organizations estimated 75 million U.S. cyclists in 1984. Half of these bicyclists were adults and half were children.

Studies by the U.S. Department of Transportation and the Environmental Protection Agency have recognized bicycling as the most energy-efficient and environmentally sound form of transportation. Official policies of both agencies and Congressional legislation (especially the Surface Transportation Assistance Act of 1982) endorse programs to encourage the increased use of bicycles for transportation and recreation.

Bicycling offers direct benefits to participants as well as to the public. Since the days when Dr. Paul Dudley White recommended bicycling for his patient, President Dwight D. Eisenhower, bicycling has been recognized as a healthful form of exercise for all ages. As a means of personal transportation, cycling provides a flexible, economical alternative to motorized travel. Those who use bicycles for transportation, in turn, benefit the general public by reducing auto emissions, promoting the efficient use of highway space, and consuming renewable rather than non-renewable energy as fuel. Furthermore, bicycling has no negative effect on the maintenance of our highway network. A trip taken by bike rather than by automobile offers the individual an opportunity to save money while improving his or her health. At the same time, the public benefits from improved air quality, reduced highway wear and tear, and increased energy conservation.

For these reasons, it is in the public good to encourage bicycling by programs and legislation which actively promote the use of bicycles. H.R. 2226 does not do this—in fact, it discourages cycling by artificially increasing the price of bicycles and bicycle parts. Currently, tariffs on bicycles and bicycle parts range from 5.5 percent to 15 percent. An increase to 19 percent, as proposed by H.R. 2226, has the effect of significantly raising costs to consumers: the "price" of tariffs would be increased by one-third to 2½ times.

In 1984, America's 75 million cyclists purchased more than 10 million new bicycles. Of these, 4.3 million bikes were imported. Based on an average retail price increase of $25 per bicycle (as estimated by the National Bicycle Dealers Association), H.R. 2226 would cost American consumers an extra $107 million, in just one year! Assuming that consumers continue to purchase imported bikes at the same rate, the funds expended on increased tariffs represent a substantial sum of money unavailable for other investment in the domestic economy. Moreover, this figure of $107 million does not consider the higher costs that H.R. 2226 would add to bicycle parts. Factoring in these charges, this proposed legislation could cost American consumers more than $150 million annually!

Bicycle USA members include more than 20,000 individuals and 500 affiliated clubs in all states of the union. These clubs represent approximately 200,000 cyclists nationwide. In a survey conducted in Autumn 1984, 74 percent of Bicycle USA's membership disagreed with the statement that "tariffs on imports should be increased to protect domestic manufacturers." In response to this overwhelming member opinion, the Bicycle USA Board of Directors adopted the position at its December 1984 meeting "opposing any imposition of new tariffs or increase of existing tariffs on any imported bicycles or bicycle accessories, and giving this issue a high priority."

Therefore, Bicycle USA, on behalf of its members and the nation's bicyclists, opposes H.R. 2226 and respectfully encourages the members of the Subcommittee on Trade to reject this proposed legislation now. Thank you.

STATEMENT OF LEWE B. MARTIN, COUNSEL, BICYCLE WHOLESALE DISTRIBUTORS ASSOCIATION

H.R. 2226

The Bicycle Wholesale Distributors Association (BWDA) is in opposition to H.R. 2226. The bill would amend the Tariff Schedule of the United States to provide for rates of duty on imported bicycles and bicycle parts consistent with those rates of duty maintained by the principal exporting nations of bicycles and bicycle parts to the United States.

BWDA membership

A list of the distributor members is included in Attachment A hereto.

Summary

Such legislation is inflationary and is contrary to the national interest.

Such legislation is discriminatory in that it increases the duty across the board and includes imports which are not directly competitive with bicycles produced in the U.S.

Such legislation is an oversimplification of a complex industrywide problem.

Such legislation is contrary to the policy statement as to international commerce in bicycle and bicycle parts adopted by BWDA, October 21, 1984.

BWDA—This organization is a nationwide trade association whose membership consists of approximately 50 wholesale distributor and 85 associate (supplier) members located in some 25 States. BWDA members manufacture and/or sell all kinds of bicycles, bicycle parts and accessories.

H.R. 2226 Inflationary and not in National Interest—Current duties on bicycles range from 57 cents each to 15 percent ad valorem. The duty on all such bicycles would be increased to 19 percent. For instance, popular lightweight 10-speed bicycles now subject to 5.5 percent would be assessed 19 percent under the proposed bill; smaller BMX models would be increased from 11 percent to 19 percent.

Bicycle parts would be similarly impacted. Most such parts are currently dutiable at 8.3 or 11.7 percent; however, there are some parts with lower rates, such as tires at 5 percent, reflectors at 6.1 percent and chains at 4.7 percent.

The Committee should take notice that the bicycle industry in the U.S. and worldwide is extremely competitive; and that over 30 percent of domestic consumption of bicycles are imported and very high percentages of parts are imported. Some parts either are no longer manufactured or were never manufactured and some are the subject of duty suspension legislation. Two bills to extend the duty-free period are currently before this Committee. (H.R. 2298 and 2350) Under present competitive conditions, it is believed that any increase in costs of imported complete bicycles or parts therefore will be passed along to U.S. consumers. This action would thus add to the ever present inflationary pressure on the U.S. economy.

Since bicycles and bicycle parts are "bound items" under the GATT agreement, any U.S. increase in tariff rates on these items would require that corresponding

concessions be negotiated with bicycle- and parts-exporting countries on other items or face retaliatory duty increases by such countries.

More importantly, the passage of H.R. 2226 would reverse a long-term practice of the Congress and put it back in the business of legislating tariff rates. The fact is that H.R. 2226 is asking Congress to legislate a remedy for certain domestic bicycle producers that they could not achieve by means of existing trade laws such as the escape clause and antidumping and countervailing duty Acts.

Certainly, enactment of H.R. 2226 is inflationary and not in the national interest.

H.R. 2226 Is Discriminatory In Result—It is the understanding of BWDA that the majority of imports are higher quality merchandise with a predominance of chrome-moly tubing and medium- to high-quality alloy components, These are the quality lightweight, all terrain and BMX bicycles sold in a fully assembled condition by servicing dealers. Such bicycles are in contrast to the low-priced product that the domestic producers supporting H.R. 2226 manufacture and sell primarily in cartons through mass merchants.

H.R. 2226 proposes a duty increase on all bicycles and parts which would increase the price to the consumer for those items not produced or produced in low volume in the U.S. This action would penaize the independent bicycle dealer and his supplier/distributor along with the apparent targets of this legislation, the low-priced imports and the mass merchandisers of these imports. Congress should not legislate such a discriminatory result.

H.R. 2226 Is An Oversimplification Of A Complex Industrywide Problem.—A bicycle is an assembly of a few basic parts, such as frames, handlebars, cranks, pedals, hubs, wheels, tires and brakes. Increasing multiple-speed gears are included. Further, many accessories have been developed for use on a bicycle. The BWDA is not aware of any bicycle producer who ever integrated to the point where all components were manufactured inhouse.

In the 1950s and 60s, increased duties on imported complete bicycles were proclaimed by the President following escape clause investigations by the Tariff Commission. While this action served to remedy somewhat the serious injury caused the domestic producers of bicycles, it also invited a new interst in importing competitive-priced imports. Very soon, the injured industry was that supplying the component parts. One of the major results of this increased import competition was the decline in domestic manufacturers of parts—a decline in some instances so severe that no coaster brakes, spokes or chains are manufactured in the U.S—and one surviving tire manufacturer.

If the policy of the Congress is to provide relief for the U.S. bicycle industry, the shotgun approach of H.R. 2226 should not be used. Rather, a rifle approach is more appropriate so relief can be targeted to those items and prices which were actually contributing to injury to the domestic bicycle producers. Instead of a 19 percent duty across the board, a selective approach could include graduated duties which would vary with the value of the article imported. Such a proposal would seem to be non-inflationary, because although duties might be raised on some items, they would be lowered on others. Further, there is precedent for a value bracket duty structure as one exists in the present TSUS for bicycle frames and chain.

BWDA Resolution—The BWDA, similar to most trade associations of its size and budget, has its members meet only once each year. At the time of its last membership meeting in October 1984, a bill similar to H.R. 2226 was being considered by the Committee. This prior bill, H.R. 5754 (98th Congress, 2d Session), provided for an increase in duties on bicycles and certain parts to 24 percent ad valorem. The membership of BWDA reviewed H.R. 5754 and on October 21, 1984, adopted the following resolution:

Whereas bicycles are assembled in many countries from component parts produced in the same and other countries creating international articles of commerce as to bicycles and bicycle parts and,

Whereas the trade policies of the government of the United States have been to promote unrestricted trade in bicycles and bicycle parts,

Be it resolved that it is the policy of the Bicycle Wholesale Distributors Association to support this trade policy of the government of the United States, and to actively oppose any actions of the U.S. Congress or Executive Department which would have the effect of restricting international trade in bicycles or component parts of bicycles.

H.R. 2226 is identical to H.R. 5754 except as to rate of duty and the designation of certain eligible bicycle parts under the Generalized System of Preferences (GSP) as dutiable items. While the BWDA membership as a whole has not considered the designation of GSP items, the Board of Directors has adopted a policy in opposition to this section of the bill. However, the Board of Directors would include such items

for consideration in the alternative graduated duty approach suggested earlier in this statement.

DISTRIBUTOR MEMBERS BICYCLE WHOLESALE DISTRIBUTORS ASSOCIATION

Allied Cycle Distributors, Inc., Waltham, MA 2254-0430
F.A. Baker Co., Inc., Maspeth, NY 11378
Bike Brokers, N. Ft. Myers, FL 33903
John T. Bill Co., Glendale, CA 91205
R.H. Brown Co., Seattle, WA 98114
Columbus Cycle, Columbus, OH 43216
Cuthrell's Inc., Norfolk, VA 23510
Detroit Cycle Supply Co., Detroit, MI 48201
Eastern Cycle Supply Co., Inc., Worcester, MA 01603
Everything Bicycles, Compton, CA 90220
Herbert L. Flake Co., Inc., Houston, TX 77087
Howard W. Georger Co., Inc., Buffalo, NY 14227
Harbor Distributors, Chicago, IL 60622
Robert D. Heaton Co., Fremont, CA 94536
Hans Johnsen Co., Dallas, TX 75247
Arizona Bicycle Wholesale, Tempe, AZ 85281
Bauer Cycle Supply Inc., Minneapolis, MN 55401
Bike Rack Inc., Hauppauge, NY 11787
Bridgestone Cycle (U.S.A.), Inc., San Leandro, CA 94577
Clayton Cycle Co., St. Louis, MO 63118
Crandall-Hicks Co., Ashland, MA 01721
Cycles Peugeot, U.S.A. Inc., 555 Gotham Parkway
District Cycle Supply Co., Inc., Beltsville, MD 20705
T. Eki, Inc./Eki Cyclery, Honolulu, HI 96817
Farber Cycle Inc., Troy, MI 48084
Fridrich Bicycle Inc., Cleveland, OH 44113-3786
Gordon Cycle Supply Inc., Cleveland, OH 44108
Hawaii Bicycle Supply Co., Waipahu, HI 96797
Island Cycle Supply Co., Minneapolis, MN 55423
Leeworld Co., Inc., Gardena, CA 90248
Louisville Cycle & Supply Inc., Louisville, KY 40214
The Merry Sales Co., San Francisco, CA 94103
Emilio Mulero Inc., Caguas, Puerto Rico
James A. O'Brien & Sons Inc., New Haven, CT 06511
Pacific Cycle Sales Inc., Yakima, WA 98907
Mel Pinto Imports, Inc., Falls Church, VA 22042
Rite-Way Products Inc., Brea, CA 929621
Service Cycle Supply Corp., Commack, NY 11725
Walthour & Hood Co., Atlanta, GA 30301
Western States Import Co., Inc., Newbury Park, CA 91320
Wisconsin Cycle Supply Co., Inc., Sheboygan, WI 53081
Robert M. Mashock Associates, Philadelphia, PA 19136
Moore's Cycle Supply, Oklahoma City, OK 73106
North America Tradimpex Corp., Melville, NY 11747
Olympic Supply Co., Milwaukee, WI 53218
Pettee Cycle Supply Co., Englewood, CA 80110
Quentin Distributors Inc., Glen Ellyn, IL 60137
Schwinn Bicycle Co., Chicago, IL 60639
Velo Sport Imports, Durham, NC 27705
West Coast Cycle Suply Co., Culver City, CA 90230
Wilson Bicycle Sales Inc., Union City, CA 94587

CAMPUS BIKE SHOP, INC.,
Columbus, OH, June 26, 1985.

To Members of the Subcommittee on Trade of the House Ways and Means Committee of the 99th Congress:

This bill No. 2226 would be a disaster to the Independent bicycle dealers. I have been a dealer for 29 years, and now have 8 people on the payroll. Since my salary and profit is less than 4 percent of the gross sales, this is always less than $30,000 per year. This is less than a Postman makes with no investment. Enclosed you will

find a survey which shows what condition the independent bicycle dealers are in. We are working 6 days a week at 10- to 12-hour days to survive.

There is over 7000 bicycle dealers in the United States with a average of 5 people per store. We are talking about some 35,000 jobs. Since this bill affects my suppliers, which there are over 50 in this country, with a average of over 50 people, which is another 2500 jobs.

A check with Senator Glenn's office would show that the supporters of this bill, were the same people who had the duties removed from the bicycle components they use on their product now. Now they want a 19 percent increase on complete bicycles and components sold directly to the consumer. This would be a 30 percent increase in price of a tire or tube at the consumer level. Huffy and Murray already enjoy 65 percent of the bicycle market. The independent bicycle dealer has 35 or less. This increase in duty would cut the dealer share to less than we now have.

The Huffys and the Murrays gained a big advantage 10 years ago when Congress set up the Consumer Product Safety Commission. At that time Huffy and Murray lobbied to sell their product in a box. The instructions say that anybody can put it together with a crescent wrench, pliers, screwdriver—you should try this some time. The bicycle dealers must assemble their bicycles, which adds $20.00 or more to cost. We also must use a torque wrench, angle finder, brake lever guide, which are special tools.

In the past when I have tried to purchase Huffy bicycles they wanted to charge me more than the mass merchandiser sold their bikes for. The department stores and discount houses have used the bicycle for a loss leader for over 30 years. They will sell the bike at cost, because they do not assemble their bikes. These loss leaders prices will remain same under new duty. Bicycles sold in independent bike shops will increase on average of $45.00. The cheapest Ten Speed bike that I could sell would be $200.00. The bikes sold by the mass merchandiser would remain at $69.00.

There was a article released by Murray Bicycle Co. distributed by A.P. press, which quoted Mr. Anderson of Murray as saying they deserved this duty increase because they built a safer bicycle. I dispute this, enclosed is pictures of a brand new Murray bicycle. Showing spokes in a wheel that are ½ inch too short, this means there is not enough spoke in the nipple for strength, and the spokes will rust at the threads and the customer cannot have his wheel trued.

In 1982, in August, to earn extra money I assembled Murray Bicycles for Central Hardware (a national chain store). In over 50 bicycles that I assembled the tires blew off the rims at 45 pounds. These tires would need at least 60 pounds to make them safe to ride.

I would like to appear before your committee.

Thank you,

WILBUR D. SCOTT, *President and Owner.*

[Attachments have been retained in the committee files.]

CHICAGO AREA BICYCLE DEALERS ASSOCIATION,
Glenview, IL, June 21, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC

DEAR MR. DOWLEY. I am writing to you on behalf of the 250 member Chicago Area Bicycle Dealer Association to voice our strict opposition to bill H.R. 2226.

We oppose bill H.R. 2226 for the same reasons we opposed bill H.R. 5754 in 1984. If passed, H.R. 2226 would force independent retailers who sell imported bicycles to pass the dramatic import tariff increase on to their customers. This substantial increase would make low-priced, inferior bicycles and parts sold in discount houses appear more attractive to money-conscious customers.

Supporters of the bill are manufacturers who, in essence, discriminate against service-oriented bike specialty shops. These manufacturers already occupy 70 percent of the market through low cost mass market outlets. The proposed import tariff hike would increase substantially their already large profits.

Passage of H.R. 2226 would put thousands of the 24,000 people who currently work in U.S. bike retail shops out of work. Wholesalers, suppliers and distributors would also terminate employees as they lost much of their market.

In hopes of halting the passage of this detrimental bill, three CABDA officers traveled to Washington, D.C. last fall to lobby against H.R. 5754. They briefed 16 Congressmen and staff on the dangers of the bill to independant bike retailers. The

bill's identification number has changed since last fall, but our position has not. CABDA opposes H.R. 2226.

Sincerely,

PAT BYRON, *President.*

STATEMENT OF ROBERT AUERBACH, GENERAL COUNSEL, CYCLE PARTS & ACCESSORIES ASSOCIATION, INC.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

1. U.S. parts producers are fighting for their survival as their market has been inundated by imports from the Far East.

2. Many companies in this industry have already been forced out of business. Exhibit A, CPAA's membership roster for 1979, provides a graphic illustration of this. For those companies remaining in the industry, the odds on their survival grow longer with each passing day.

3. Industry employment is down 50 percent over the most recent five year period. For some companies, the decline in employment is much greater. These grim statistics do not fairly portray the immense pain and suffering endured by the workers in this industry whose lives have been dislocated.

4. The U.S. cycle parts industry is very heterogeneous. Yet there is one common link in the sense that most of them depend on a mere handful of bicycle manufacturers for a substantial portion of their sales and revenues. Unfortunately, the bicycle manufacturers have also sustained enormous injury. As a result, U.S. parts producers must not only compete with importers but must also contend with a declining customer base.

5. The bicycle industry is very cyclincal. In the past, this worked to the advantage of U.S. parts producers who have the ability to deliver in days what might take weeks to obtain from the Far East. Sadly, even this natural advantage of proximity to our customers is no longer what it used to be. More and more, the large bicycle manufacturers look overseas for their long term purchasing programs leaving us with only fill in and emergency orders. Some parts producers have been relegated to the role of supplier of last resort.

6. The current situation is very unhealthy. The U.S. bicycle manufacturing industry cannot survive without a strong and healthy parts industry. The U.S. parts producers, with factories designed for mass production of quantities in the millions, cannot survive on fill in orders alone.

7. According to statistics from the United States Department of Commerce, more than thirty nations are presently enjoying the fruits of our market. The principal competition is from the Far East, notably Taiwan.

8. The total value of imported parts increased 50 percent from 1982 to 1984. The market share held by U.S. parts producers has dropped to just 25 percent. Conversely, importers have taken over 75 percent of our market and are aggressively going after the rest.

9. The bicycle manufacturers are facing a similar situation. Imports have shot up from 17 percent of the domestic market in 1979 to 42 percent in 1984.

10. Taiwan is far and away the source of greatest injury. Imports from Taiwan went from 976,000 units during 1982 to 1.9 million units during 1983. That one country presently accounts for 77 percent of total imports.

11. U.S. bicycle production has decreased. Last year, only 5.9 million bicycles were shipped by domestic manufacturers, 32 percent below the level shipped in 1979.

12. Among U.S. bicycle manufacturers, employment levels have declined significantly as, too, their financial performance.

13. On a weighted average basis, our tariff rates on bicycles and parts are the lowest in the world. Approximately 75 percent of all imported bicyles are assessed at a duty rate of only 5.5. Forty-two percent of all imported parts come in duty free. Compare this with the situation in Taiwan where the duty rate on bicycles is 35 percent and the duty rates on parts is 20 percent. In addition, Taiwan assesses an uplift tax of 10 percent which is added to the value of these articles before the duty is assessed.

14. Korea assesses a rate of 40 percent ad volorem on bicyles and 30 percent on frames and other parts, plus a 10 percent value added tax.

15. Foreign trade should be a two way street. This is hardly the case with bicycles and bicycle parts. We have virtually eliminated all trade barriers while our principal competitors have not reciprocated. As a result, the U.S. bicycle is fighting for its life.

16. H.R. 2226 would raise the duty rate on imported bicycles and bicyle parts to 19 percent, a rate more consistent with those maintained by the principal exporting nations of bicycles and bicycle parts to the United States. With that rate of duty, U.S. producers would be able to compete with the importers, particularly Taiwan, on a more equal basis.

17. The bicycle industry provides a product that not only enhances the physical fitness of U.S. citizens but also helps to conserve energy, two important national goals. It desperately needs the relief afforded by H.R. 2226 if it is to survive. Accordingly, we urge you to report H.R. 2226 out of committee with favorable recommendation.

Condition of the domestic bicycle parts industry

The Cycle Parts and Accessories Association, Inc. ("CPAA"), located in New York City, is a national trade association whose membership comprises the leading U.S. producers of bicycle components. There are now approximately twenty of these companies, although as recently as five years ago, the figure was substantially higher.

Many old and proud companies have been forced to withdraw from the business as the U.S. marketplace has been inundated by imports from the Far East. This market condition has prevailed for quite some time. Many companies have been hanging in there with the hope that the bicycle industry would be bootstrapped by a stronger domestic economy. Nobody expects a return of the good old days when "bicycle boom" demand generated huge orders for U.S. bicycle parts makers. Many do feel, however, that a certain level of prosperity is attainable as the economy improves. But for those several companies which threw in the towel during the recent period of hard times for this industry, their fate has already been determined.

No words can fully describe the devastating injury sustained by this industry. Nor do the cold hard statistics fairly portray the immense pain and suffering endured by the workers in this industry whose lives have been dislocated and uprooted. Perhaps one way to comprehend the enormity of the problem is to glance at CPAA's membership roster (Exhibit A) published only seven years ago. In just that short period of time, the number of companies that have left our industry is almost too much to believe. Yet the list keeps growing.

This industry can no longer bear silent witness to its own demise. If it is to survive, urgent action is required now.

To understand how the cycle parts industry got into this predicament, certain background information is necessary. Unlike the domestic bicycle manufacturing industry, the domestic cycle parts industry is highly heterogeneous. It is comprised of many companies ranging in size from exceedingly small "cottage type" operations to divisions and subsidiaries of large multinational corporations. The large parts producers derive most of their revenues from original equipment manufacturers ("OEM's") of which there are just a handful. With such a small customer base, our members are highly vulnerable to swings in the demand for their products. If, for example, Huffy Corp., the largest U.S. bicycle manufacturer, should decide to purchase a component from a different source, or perhaps even produce it internally, such a decision could have a dramatic impact upon the supplier who loses that business.

The highly cyclical nature of the bicycle industry is yet another factor with which parts producers must contend. For most consumers, a bicycle is a discretionary purchase. It must compete in the marketplace with home computers, video games, roller skates and whatever the particular fad may be at the time. When the weather is good, retail business picks up but three or four rainy spring weekends can impact sales for the entire year.

Business can be strong one week and soft the next with no apparent rhyme or reason. Naturally, this creates havoc with a bicycle manufacturer's production schedules. Carrying excessive inventories of both finished bicycles and raw materials is expensive. By the same token, thin inventories may enhance a company's balance sheet but result in lost sales opportunities.

In an effort to cope with these sudden shifts in demand, U.S. bicycle manufacturers have historically relied heavily upon their domestic suppliers. Our members have the means to deliver components on very short notice. We can deliver in days what might take weeks to obtain from the Far East.

One would think that this natural advantage of proximity to our customers would offer some protection against the importers. Regretfully, it has not turned out this way. More and more, the large bicycle manufacturers look overseas for their long term purchasing programs leaving us with only the fill in and emergency orders. The reason they do so is that we are no longer price competitive with the Far East

because of high value of the U.S. dollar and the low wage scales prevailing in that region of the world.

We do not fault the bicycle manufacturers for acting in their own self interest. They really have no other choice if they are to remain price competitive with imported bicycles. However, even they recognize that their increasing proclivity to source their requirements abroad and to treat us as suppliers of last resort is not a healthy situation and in the long run can be counterproductive. Indeed, that is why H.R. 2226 proposes duty increases on bicycle components as well as finished bicyles.

Suffice it to say that the U.S. bicycle manufacturing industry cannot survive without a strong and healthy parts industry. And the U.S. parts industry cannot survive on fill in orders alone. Our factories are designed for mass production of quantities in the millions. Many of our members' factories are operating at only a fraction of capacity. Some are shut down and their workers have been placed on indefinite layoff. This situation cannot last much longer.

According to statistics from the United States Department of Commerce, more than thirty nations are presently enjoying the fruits of our market. Each day, giant container ships laden with bicycle parts produced overseas enter our ports and harbors. Last year, 42 percent of all bicycle parts imported came in duty free by virtue of the duty suspension bill. Almost $750 million worth of bicycle components have entered duty free since the duty suspension bill was first enacted in 1981.

Although Japan, Taiwan and Korea remain the dominant suppliers, virtually any country can find its own niche in this large and receptive market. Aided by Japanese capital and technology, but not hampered by high wage rates, virtually every country bordering on the Asian seaboard is now shipping bicycle parts to the United States. Even the People's Republic of China is gearing up to exploit this opportunity and looms as a major future threat. Because of these inroads, our marketshare has dwindled to about 25 percent.

The total value of imported bicycle parts increased from $126.1 million in 1982 to $189.5 million in 1984. This constitutes a growth rate of 50 percent. Moreover, in the last two years, import penetration has expanded sharply. Employment in the parts industry has also declined significantly as a result of these import trends. Among U.S. parts producers, employment in 1984 was only half of what it was in 1980.

Condition of the domestic bicycle manufacturing industry

Not surprisingly, the situation is much the same for the bicycle manufacturers. In 1982, bicycle imports accounted for 23 percent of the U.S. market, a sharp jump from the 1979 import penetration level of 17 percent. In 1983, the situation worsened with imports dominating 30 percent of the U.S. market in that year. Indeed, the Tiwanese increased the volume of their imports from 976,000 units during 1982 to 1.9 million units during 1983. Significantly, imports from Taiwan accounted for 71 percent of total imports in that year. Moreover, there is no relief in sight.

Imports captured 42 percent of the domestic market in 1984, an excessive 12 point increase in a brief one year period. In terms of absolute volume, imports were more than 56 percent higher in 1984 than they were a year earlier, as Taiwan alone accounted for 77 percent of total imports. Furthermore, through March 1985, total imports accounted for 45 percent of the domestic market, growing 27 percent over the same period one year ago.

As a result of this dramatic escalation of imports, the health of the U.S. bicycle manufacturing industry has deteriorated sharply. In 1984, 5.9 million bicycles were shipped by domestic manufacturers, a figure which was 32 percent below the level of 1979 and more than 6 percent below the 1983 level. This decline is especially noteworthy since the U.S. market for bicycles increased by more than 12 percent between 1983 and 1984; thus, absolutely all of the market growth, plus a portion of the market share previously held by U.S. producers, was taken by imports. During the first three months of 1985, domestic shipments were down 17 percent over the same period one year ago.

Employment in the bicycle manufacturing industry has also declined significantly as a result of these import trends. Production worker employment in 1983 was 20 percent below the level of 1981. Moreover, in 1984, the level of production worker employment was more than 18 percent below the level of 1983.

The bicycle industry's financial performance has also been adversely affected by the recent import surge. A survey prepared by the U.S. International Trade Commission, even before the major import assault began in 1983, showed a net sales decline of 16 percent between 1980 and 1982, coupled with a decline in operating income from 6.4 percent in 1980 to 0.8 percent in 1981 and an operating loss of −1.6 percent in 1982. Although no additional industry wide data are available, recent re-

ports issued by the two largest (and only publicly owned) U.S. bicycle manufacturers demonstrate that this bleak profit picture is continuing.

For example, Huffy Corp., Dayton, Ohio, the largest U.S. producer, reported that its total sales for the second half of 1984 were down about 3 percent with 4th quarter 1984 sales down by 7 percent and total corporate earnings in the quarter 40 percent below the level of the same quarter in 1983. Similarly, Murray Ohio Mfg. Co., Brentwood, Tennessee, the second largest domestic bicycle manufacturer, reported a pretax loss of $3.4 million on its bicycle operations in 1984, compared to pretax earnings of $6.6 million in 1983, as bicycle sales fell by 19 percent. This was the first yearly recorded loss by this company on its bicycle operations. Both companies acknowledge that low priced bicycles imported from Taiwan are the principal cause of this declining profit picture.

Conditions in the principal exporting nations of bicycles and bicycle parts

Certain factors accounting for Taiwan's ability to successfully penetrate this market are incapable of a "quick fix" legislative solution. Chief among them would be the high value of the U.S. dollar and the low wage scales prevailing in Taiwan. However, other factors add to the natural advantages that Taiwan already possesses.

On a weighted average basis, our tariff rates on bicycles and parts are probably the lowest in the world. Approximately 75 percent of all imported bicycles are assessed a duty rate of only 5.5 percent. 42 percent of all imported parts come in duty free. Now compare this with the situation in Taiwan where the duty rate on bicybles is 35 percent and the duty rate on parts is 20 percent. In addition, Taiwan assesses an uplift tax of 10 percent which is added to the value of these articles before the duty is assessed.

Korea assesses a rate of 40 percent ad valorem on bicycles and 30 percent on frames and other parts, plus a 10 percent value added tax. In short, our tariff rates are much lower than those prevailing with our principal competitors. Certainly trade should be a two way street. This is hardly the case with bicyble and bicycle parts.

U.S. bicycle manufactures and we, their suppliers, are ready, willing and able to complete with the importers. All we ask is that everyone play by the same rulebook. We may have to accept the abnormally high U.S. dollar. We may have to accept the low wage scales and the numerous other competitive advanatages enjoyed by our overseas competitors. But what we cannot accept is the fact that we have virtually eliminated all trade barriers while our principal competitors have not reciprocated. As a result, the U.S. bicycle industry is fighting for it life. Bicycle imports have a 42 percent market share and bicycle parts imports a 75 percent market share.

Conclusion

H.R. 2226 would raise the duty rate on imported bicycles and bicycle parts to 19 percent, a rate more consistent with those maintained by the principal exporting nations of bicycles and bicycle parts to the United States. The U.S. bicycle industry desperately needs this legislation if it is to survive. As the statistics indicate, the dramatic surge in imported bicycles and bicycle parts that began in 1983 shows every sign of continuing. CPAA therefore urges Congress to take the necessary steps to halt this trend. One of these steps must be the enactment of H.R. 2226 which, by increasing the duties on bicycles and bicycle components, will enable U.S. producers to compete with those foreign producers, especially Taiwanese manufacturers, who seek to take unfair advantage of the openness of the U.S. market. In restraining the escalation of imports, Congress will be helping an industry which provides a product that not only enhances the physical fitness of U.S. citizens but also helps to conserve energy, two important national goals.

Accordingly, we urge you to report H.R. 2226 out of committee with a favorable recommendation.

A BICYCLE IS THE SUM OF ITS PARTS

Count on a CPAA manufacturer for innovative, quality products and a dependable source of supply. He is your partner in bike progress and offers the varied bicycle parts and accessories listed in this folder.

NORM ADAMS, INC.
3201 Hazel Street, Erie, Pennsylvania 16508
Bearings • Child Carriers • Control Carriers • Decals Exercisers Kits • Saddles • Shop Tools • Spokes Spoke Wheels • Tire Pressure Checker • Velo Pedal Blocks

AIR PRODUCTS AND CHEMICALS, INC.
Hanover Avenue and Hoagland Road
OUT OF BIKE BUSINESS
Hand Grips • Tape and Plugs • Custom Mold Bike Parts and Accessories

ALCO CYCLE PRODUCTS, INC.
451 3rd Street, S.E. • Largo, Florida 33540
OUT OF BIKE BUSINESS
Fork Struts, Stems, Handlebars, Crank Lifter Kits and Seat Struts

AMERACE BRANDS
Div. Stimsonite Products
Ace Road, Butler, New Jersey 07405
Wide Angle Reflectors • Pedal Reflectors Attaching Hardware

AMERICAN CYCLE SYSTEMS, INC.
1449 Industrial Park Street, Covina, California 91722
Light Alloy Hubs - Standard and Quick Release Moto X Front Hubs - Standard and Quick Release Axle Sets - Quick Release Skewers and other Hub Parts Alloy Handlebar Stems • Valve Adapters • 27" Wheels

ABS INDUSTRIES INC.
OUT OF BIKE BUSINESS
Fenders • Front Forks Forged and Tubular • Handlebar Stems • Kickstands Pedals • Stabilizers

BARRECRAFTERS
Box 158, Shelburne, Vermont 05482
OUT OF BIKE BUSINESS
Bumper Models

THE BENDIX CORPORATION
The Bicycle & Ignition Components Division
OUT OF BIKE BUSINESS
Bicycle Coaster Brakes • M/A Coaster Brakes, Large Flange

BORNEMANN PRODUCTS, INC.
OUT OF BIKE BUSINESS
Saddle Irons,

BRIGHT STAR INDUSTRIES, INC.
Gulotta Division
600 Getty Avenue, Clifton, New Jersey 07015
OUT OF BIKE BUSINESS
Snap-On Bike Light • License Plate Fasteners • Dry Cell Batteries • Flashlights • Lanterns

CARLISLE TIRE & RUBBER COMPANY
P.O. Box 99, Carlisle, Pennsylvania 17013
Complete Tire Line - Blackwall, Whitewall, Gumwalls and Reflective • Inner Tubes - Regular and Puncture Resistant for all Sizes • Rimstrips for all Sizes

CRANE EDMUND CORPORATION
OUT OF BIKE BUSINESS

CUSTOM CYCLE COMPANY
OUT OF BIKE BUSINESS

D&A COMPE, INC.
P.O. Box 798, Fletcher, North Carolina 28732
Brakes and Brake Parts for Side Pull and Center Pull Levers Touring, Racing and Safety • Forged Aluminum Stems

ELRAE PRESSED METALS, INC.
75 Rosalie Street, Buffalo, New York 14216
Chain Guards • Fenders and Braces • Fork Caps • Toe Clips Tubular Fork

THE FAULHABER COMPANY
Div. of Persons-Majestic Manufacturing Co.
21-31 Hamilton Street, Monroeville, Ohio 44847
Saddles - Complete Line for all Styles of Bicycles and Velocipedes • Display Stands • Luggage Carriers Back Stay Bridge Clips

GOBBY MANUFACTURING COMPANY, INC.
OUT OF BIKE BUSINESS

THE GOODYEAR TIRE & RUBBER COMPANY
P.O. Box C-801, New Bedford, Massachusetts 02741
OUT OF BIKE BUSINESS
Rimstrips for all Sizes

D. P. HARRIS HARDWARE & MANUFACTURING CO., INC.
99 Chambers Street, New York, New York 10007
Manufacturer for the following companies Bicycle Manufacturing Co., Birmingham Products, Bright Star Industries, Crane Edmund Co., Excel, Inc., Hunt Wilde Co., Kelly Springfield Co., Messinger Manufacturing Co., National Bearings Co., Stewart Warner Co., Torrington Manufacturing Co., Troxel Manufacturing Co., Wesson Products Co.

HARTFORD BEARING COMPANY
951 West Street, Rocky Hill, Connecticut 06067
Bearings, Ball - Ball retainers with Balls

HUNT WILDE CORPORATION
600 North Iowa Street, Dayton, Ohio 45403
Complete line of Handlebar Grips, Tapes, Plugs and Streamers for all Models and Styles • Hub Shifters Touring Bags • Valve Caps • Seat Covers • Moto-X Grips, Cross Bar Pads, Stem Pads, Frame Pads, Number Plates, Numbers • Wide Angle Mirrors • Reflective Bracelets and Pant Clips

J. C. I.
717 South Nogales Street, City of Industry, California 91749
Moto-X Accessories, Manual, Handlebars, Seat Struts, Conversion Kit - Fenders, Number Plates, Crossbar Pad, Grips, Stem Guard, Top Bar Guard, Mud Flap • Trunk, Top and Bumper Carriers • Lubricants • Polishes • Tube Seal Premium Oil • Security Cable, Chain and Locks • Exercise Kit • Parking Racks, Storage Hooks • Banners • Covers Toe Clips

LYNN A. WILLIAMS ENGINEERING COMPANY
OUT OF BIKE BUSINESS
Brakes Hydraulic Caliper

McCAULEY METAL PRODUCTS, INC.
OUT OF BIKE BUSINESS
Display Stands • Fenders, Braces, Clips • Kickstands Racks • Stabilizer Wheels • Stems • Binder Bolts Expander Bolts • Sleeves • Swing Bars

MESSINGER MANUFACTURING CO., INC.
Durant Avenue, Bethel, Connecticut 06801
Saddles - Complete Line for all Styles of Bicycles Velocipedes and Exercisers

MIRO-FLEX COMPANY, INC.
3050 No. St. Francis, Wichita, Kansas 67201
OUT OF BIKE BUSINESS
Spoke

NATIONAL BEARINGS COMPANY
Manheim Pike and Hoey Mill Road, Lancaster, Penna. 17604
Complete line of Bearings such as Angular Contact Bearings, Cup and Cone Ball Retainers, Thrust Bearings and Unground Radial Bearings • Bearing Design and Engineering Assistance for Special and New Products

OHIO ROD PRODUCTS
Div. of Monogram Industries, Inc.
P.O. Box 416, Versailles, Indiana 47042
Spokes and Nipples • All Sizes and Descriptions

OXFORD INTERNATIONAL CORPORATION
OUT OF BIKE BUSINESS
Pedal Blocks

PERSONS MAJESTIC MFG. COMPANY
224 Commercial Street, Worcester, Massachusetts 01608
Saddles - Complete Line for all Styles of Bicycles and Velocipedes • Luggage Carriers • Display Stands

RET BAR CYCLE MFG. CO., INC.
RT. 2, Box 366, Peoria, Arizona 85345
Trishcel Conversion Kits

RYCO
Div. Lyn Street, Los Altos, California 94022
OUT OF BIKE BUSINESS

(continued)

EXHIBIT A
670

(continued)

SLAYMAKER LOCK COMPANY
[illegible], Pennsylvania 17604
OUT OF BIKE BUSINESS

STEERE ENTERPRISES INC.
[illegible], Ohio 44278
Vinyl Grips [illegible] Plastic and Vinyl
Vinyl Dip Coating of Metal Parts
OUT OF BIKE BUSINESS

STEWART WARNER CORPORATION
1826 Diversey Parkway, Chicago, Illinois 60614
Complete Bicycle Speedometer Kits for all Sizes of Bikes or Exercisers with Totalizing or Reset Odometers

TODSON, INC.
64-66 Allen Boulevard, Farmingdale, New York 11735
Bags · Replacement Wheels

THE TROXEL MFG. COMPANY
Moscow, Tennessee 38057
Saddles · All Sizes and Models for Bicycles, Velocipedes, Exercisers, Moto X and Adult Tricycles · Moto X Struts and Bar Pads · Baby Carriers · T Bars · Welded Steel Tubing

U. S. PREMIER CO. OF NEW YORK, INC.
[illegible], New York 11746
OUT OF BIKE BUSINESS

WALD MANUFACTURING CO., INC.
P.O. Box 10, Maysville, Kentucky 41056
Fenders · Braces · Handlebars · Stems · Kickstands Baskets · Pedals · Training Wheels · Forks · Chains Sprockets · Carriers

WESCON PRODUCTS COMPANY
2533 South West Street, Wichita, Kansas 67201
Ultra Glide Bicycle Cables · Grips · Injection Molded Plastic

CYCLE PARTS AND ACCESSORIES ASSOCIATION READY TO SERVE YOU

- CPAA represents America's leading manufacturers of bicycle parts and accessories. It aims to expand the place of bicycles on the American scene and to gain the respect and confidence of the public, government and the business community.
- CPAA issues bulletins on timely subjects such as statistics, domestic and international standards, public relations, and all important trade developments.
- CPAA monitors and reports all relevant legal and legislative developments in Congress, the federal agencies, and in state legislative bills. It also represents its members on tariff and import matters.
- CPAA maintains close liaison with all other trade associations in the industry and encourages all allied national bicycle oriented, civic and community organizations that advance the cause of bicycling.
- CPAA policies are determined by its members and effectuated by a Board of Directors and seven committees.
- CPAA invites your inquiries. Write to us at our headquarters office located at 122 East 42nd Street, New York, New York 10017.

122 EAST 42nd STREET
NEW YORK, NEW YORK 10017

JOHN AUERBACH,
MANAGER

BICYCLE PARTS AND ACCESSORIES

SUPPLIED BY

AMERICA'S LEADING MANUFACTURERS

Cycle Parts & Accessories Association
122 East 42nd Street, New York, N. Y. 10017

671

CYCLES PEUGEOT USA, INC.,
Carlstadt, NJ, June 21, 1985.

JOSEPH DOWLEY,
Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIR: I am writing to urge your opposition to H.R. 2226, the bill which proposes an increased tariff on imported bicycles and bicycle products to a blanket 19 percent surcharge. As executive Vice President of Cycles Peugeot, U.S.A., Inc., I write not only on behalf of my company and its employees, but also on behalf of the 2000 retailers in the United States who buy products from Cycles Peugeot, and on behalf of the retail customers who choose to buy these products.

In the past few years, the variety of imported bicycle products has proliferated. This has led to a natural and beneficial competition among importers, to provide the best quality at the lowest cost. Because of this, American consumers are currently faced with a wide selection of high quality imported products at affordable and competitive prices. This has in turn allowed cycling, as a means of recreation, exercise and sport, to catch on in the United States. However, it is this same novelty which has kept the consumer-acceptable wholesale and retail mark-ups quite low in the bicycle industry. As with any young concept, it must be developed and nurtured before consumers accept paying for its true value.

There are two types of retail outlets for bicycle products in the United States, each with a discrete clientele. One, the mass merchandiser, or department store, sells a single brand of inexpensive often lower quality bicycles. For the most part, bicycle sales represent a small, non-vital portion of a mass merchandiser's business, and, as such, bikes are often sold unassembled with no after-sale servicing available at the store. This promulgates the idea of the bicycle as being a toy, and generally attracts those consumers who have short-term or limited cycling plans.

The second retail outlet for bicycle products is the specialty store, or independent dealership. The higher quality and generally more expensive bicycles in the American market are those that are imported and sold through these independent bicycle stores. Because these retailers depend on the sales of bicycles, spare components and accessories for their livelihood, they sell durable, quality bikes, for which they provide the after-sale maintenance and service that are necessary to keep a bicycle in safe riding condition. Clearly, this supports the idea of bicycles as vehicles, for both recreation and sport. As a consequence, independent bike dealerships attract those consumers who have serious and long term cycling plans and who want to invest in high quality products.

H.R. 2226 is sponsored on behalf of the Bicycle Manufacturers of America, whose primary business is sales to department stores. Ironically, the bill, if passed, will not necessarily increase bicycle sales through the mass merchandiser, because of the difference between the department and specialty store clientele. H.R. 2226 will, however, directly and detrimentally affect sales in independent dealerships, whose primary business is in imported bicycle products. Because manufacturers will be forced to increase their wholesale prices, retailers will have to either raise their retail prices, thereby driving away newly-interested consumers, or maintain their current prices, thereby losing about 50 percent of their current profits. Clearly, either option will lead to the demise of both the independent bike dealership and the importers from whom he purchases bicycle products. Economically, this means loss of jobs at the thousands of retail dealerships in the United States, as well as at the manufacturers' importers' warehouses and offices.

Bicycling, as both recreation and serious sport, has made great strides over the past few years in America. This is due, for the most part to the availability of imported bicycles that are of high quality and are designed for durability and performance. Passage of H.R. 2226 would bring about the limiting and eventual eliminaiton of variety now available to the American consumer. In essence, this consumer would no longer be allowed to choose—his choice would have been predetermined by the Bicycle Manufacturers of America and the American Congress.

Please oppose H.R. 2226, in favor of the continuance of free trade in the fledgling American bicycle industry, and freedom of choice for the American cyclist.

Sincerely yours,

ALEXANDRE SACERDOTI,
Executive Vice President.

DIA-COMPE, INC.,
Fletcher, NC, June 21, 1985.

Hon. SAM GIBBONS,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN GIBBONS: It's hard to believe that anyone anywhere could still be unaware of the perilous plight of the bicycle and bicycle part makers in America. If there is, a two minute scan of the position paper attached, prepared by the Bicycle Manufacturers Association, tells it all. For further emphasis, if necessary, please look at these critical Dia-Compe and industry figures comparing 1981 to the last full year, 1984.

	1981	1984
Dia-Compe:		
Total employees	126	72
Total sales	$8,058,733	$5,717,025
Total payroll	$1,683,806	$1,269,734
Industry:		
Bikes made in USA	6,832,000	5,863,000
Bikes imported	2,100,000	4,314,000
Import percent of total U.S. market	23.5	42.5
Taiwan percent of imports	52.3	73.0

And still climbing in 1985!

As this shows, our little company is in deep trouble and sinking fast. All bicycle makers and all bicycle part makers in the United States are in the same situation.

Many congressmen supported our legislation last year to increase tariffs but the bill died in committee. H.R. 2226, copy enclosed, has been introduced recently. Your support of this bill is desperately needed. Your affirmative reply would be deeply appreciated by me, my company and the entire industry. Without your help we may all soon be gone.

Very truly yours,

ROBERT A. CLARKE, *President.*

[Attachments have been retained in the Committee files].

DISTRICT CYCLE SUPPLY CO., INC.,
Beltsville, MD, June 7, 1985.

Hon. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIR: By confering with many of our professional bicycle dealers within the eight middle Atlantic States, they unanimously disapprove of the potential increase in the duty(s) on bicycles and bicycle parts, as suggested in the pending H.R. 2226.

I personally have mentioned to numerous American manufacturers that an alternative to a more competitive bicycle and bicycle parts market would be to upgrade their standard of quality control which in itself would discourage imports.

More American products would be sold if the American factories would make shipments within a more reasonable time period. They take six to eight weeks and more shipping in the height of the bicycle season.

Without question, duty increases would, in my opinion, be a financial burden on the American public and cause undue hardship on the bicycle dealers who now struggle for a living in a limited, seasonal market.

In summary, the American factories would discourage most imports by:

1. Making a better product.
2. Ship orders within an acceptable time period.
3. Cater less to the mass merchandisers and more to the bicycle dealers who promote and service their goods.

America was built on the honest efforts of the small man who serve the public with honesty and integrity. Don't let him and the American public down by imposing this unjust duty.

Very sincerely,

ABRAHAM WOLF, *President*

JUNE 25, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington DC.

DEAR SIR: My name is Sylvester W. Darcy. I am the owner of the following bicycle shops: Temple Bicycle Center, 804 E. Barton, Temple, TX 76501, Tel: (817) 778–5861, and Killeen Bicycle Center, 3506 E. Rancier, Killeen, TX 76541, Tel: (817) 699–3155.

I strongly urge you to vote against H.R. 2226, for the following reasons:

I understand this bill would increase the tariff on imported bicycles to 19 percent. This tariff would have an extremely adverse impact on the small business people who normally operate independent bicycle shops. At the present time bicycle shops are compelled, because of higher retail prices, to concentrate on customers who are either dedicated cyclists, or the very few people who understand that a customer usually gets what he pays for. The additional tariff would raise the retail prices of imported bicycles so high that many potential customers would refuse to buy them. The net result would be that many small bicycle shop owners, like myself, would be forced out of business.

I understand that one of the instigators of the proposed bill is the Huffy Corp. Huffy Corp. markets two brands of bicycles. One of the brands is the Huffy which is a sub-quality bicycle retailed by department stores, discount houses and even grocery stores. The Huffy brand is low-priced because it cannot compete in the same price range with the better quality imported bicycles. The other brand is the Raleigh which is imported from Taiwan and is retailed by bicycle shops. One would wonder why Huffy Corp. would want an additional tariff on imported bicycles, as it would appear that Huffy Corp. would be jeopardizing its own position of an importer of bicycles. However, it doesn't take a genius to understand what would happen if H.R. 2226 were to pass. The Raleigh brand would retain its relative position with other imported bicycles. The Huffy brand sales would almost automatically increase because of its lower retail price. Huffy Corp. would then be in the enviable position of being able to raise the retail prices of the Huffy brand bicycles without fear of competition from imported bicycles. I am not a lawyer, but it seems to me that this is manipulation of the market. I understand that the Murray Corp. is also a proponent of this bill. I am not aware of the Murray Corp. situation but I think it would warrant intensive investigation.

The above are only my own thoughts, but if H.R. 2226 were to pass, I am sure my predictions would be accurate. I again very strongly urge you to vote against H.R. 2226.

Respectfully yours,

SYLVESTER W. DRACY.

FAULHABER CO.,
Monroeville, OH, June 24, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee of Ways and Means,
Longworth Office Building, Washington, DC.

DEAR MR. DOWLEY: As President of our Company, as a member of the Cycle Parts and Accessories Association, and as a supplier member to the Bicycle Manufacturer's Association, I urge full committee support to Bicycle related bills HR2298 and HR2226.

H.R.2298 (the duty suspension bill) has always been supported by American bicycle parts manufacturers, such as ourselves, where those parts on the duty suspension are not made domestically. This continuation of the duty suspension provision is vital to the American Bicycle Manufacturers.

H.R.2226 to amend tariff schedules on bicycles and bicycle parts, I believe to be personally needed if we are to have any U.S. Bicycle and Bicycle Parts manufacturing base left in our country. Imports of bicycles and bicycle parts, especially from Taiwan, are at record levels and must be reduced for our very survival.

Your support of these two house resolutions is vital to our industry and to our Company and it's 100 employees and their families.

Very truly yours,

RICHARD D. SANDERSON, *President.*

GENERAL BICYCLE & MOPED CO., INC.,
East Rutherford, NJ.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC. 20515

DEAR MR. JOSEPH K. DOWLEY: We are writing to you in opposition to H.R. 2226, insofar as it refers to increasing import tariffs on Bicycles, and Bicycle Parts.

The enactment of these duties is neither necessary nor justified. H.R. 2226 has to be introduced at the request of the Bicycle Manufacturers Association (BMA) which consists of the three largest domestic producers; Huffy, Murray Ohio, and Roadmaster. These three industry giants control about 65 percent of total U.S. bicycle sales. Huffy alone has a market share of over 30 percent nationwide. Both Huffy, and Murray are publicly held New York Stock Exchange listed companies. Between June 30, 1975, and June 30, 1984 Huffy increased sales from $93 million to $273 million, earnings from $5.6 million to $22.4 million, and book value from $5.51 per share to $11.07 per share. Between December 31, 1975, and December 31, 1983, Murray Ohio increased sales from $127 million to $386 million, earnings from $12.6 million to $28.7 million, and book value per share from $15.15 to $28.23.

It is true that domestic manufacturers have felt the pressures of competition from imports over the past several years, and that this competition continues. Standard and Poors Corporation, in their periodic reports on both companies state, in the case of Murray: ". . . Murray stated that it was taking stringent measures to effect cost reductions, and productivity gains in all areas.", in the case of Huffy; ". . . Huffy added that it will continue to fight imports by introducing innovative new products, and intensifying internal cost reduction programs." Is this not the purpose of competition? To force companies to compete through productivity, and innovation? Why then do both companies go on to say in their statements to Standard and Poors that ". . . The companies in the industry are continuing efforts to impose tariffs or quotas on imports of bicycles into this country."?

If they are indeed feeling the pressure of legitimate competition, for the first time in their corporate lives, then let them roll up their sleeves, and compete in the marketplace and not attempt to have Congress enact protectionist legislation, such as H.R. 2226. The increased cost to American consumers that would result from passage of H.R. 2226, thus conveniently strengthening the already existing strangeland that these grants have on the market, would undoubtedly run into the tens of millions of dollars annually.

These market leaders, it should be noted, sell primarily to large national mass merchandisers. Enactment of H.R. 2226 would increase import duties from the present 5.5 percent to 11 percent range to flat 19 percent on bicycles. This is not only an anti-competitive bill for the industry as a whole, but also completely neglects the economic dependence of the over 8,000 independent bicycle dealers, all across America, on a diversity of suppliers. Many of these dealers, second, and third generation owners of their small businesses, have consistently not only sold bicycles in their communities, but provided the necessary service, repairs, and availability of spare parts vitally required by the nation's bicycle owners, and requirements that the mass merchants do not even attempt to address.

We cannot believe that responsible members of Congress would permit the giants of the bicycle industry, who are in sound financial condition, to push through H.R. 2226. These are not companies in desperate financial straits. These are healthy companies seeking government protection to shield them from the need to aggressively pursue their own expressed needs to increase productivity, and reduce costs, and generally get their corporate houses in order.

Foreign manufacturers have provided a wealth of innovation to the independent dealer, and the consumer. Through use of lightweight alloys, and aerodynamic design the bicycle of today is a far improved product. The diversity of product available to the potential buyer is unequalled in history. American manufacturers must not use this increased competition as an excuse to club back their competitors, but rather must attune themselves to the desires of the bicycle riding public, and protect their market share, not with unwarranted protectionist legislation, but with increased efforts to design, and produce the competitively priced, state of the art goods to which bicycle purchasers everywhere are entitled.

We urge you to vote in favor of fair, and open competition, in favor of the thousands of independent bicycle dealers throughout our 50 States, in favor of the thousands of employees of the nation's bicycle importers, and distributors, and in favor

of the ten million consumers that buy bicycles each year, by voting against and speaking against H.R. 2226.

Sincerely,

CHET D. RIBNER, *Senior Vice President.*

General Bicycle & Moped Co., Inc., and over 800 dealers nation-wide.

SUMMARY

1. General Bicycle & Moped Co., Inc. is opposed to H.R. 2226.
2. Bicycle Manufacturers Association (BMA) which lobbied for H.R. 2226 consists of industry giants who already control 65% of the market.
3. Huffy, Murray-Ohio, and Roadmaster (BMA members) are profitable, financially sound corporations which do not need to be shielded from competition.
4. H.R. 2226 would hurt millions of consumers, and the more than 8,000 independent bicycle dealers who sell to, and service them.
5. Foreign competition will force the domestic manufacturers to provide a product which is technologically superior, and of higher quality than is currently being offered to the American consumer.

[Attachments have been retained in the committee files.]

GLENN'S BICYCLE SHOP,
Winter Haven, FL, June 11, 1985.

DEAR CONGRESSMAN: Regarding bill H.R. 2226 put forth by the bicycle Manufacturers of America (i.e. BMA), I am strongly opposed to this bill.

This bill will raise the imported bicycle duty from 5.5% to 24% across the board, which will raise small bicycle dealerships costs some 40 percent in the long run.

The small bicycle dealership relies on many imported parts for repairs and sales to live on.

BMA claims the small dealer will not be hurt by this bill . . . WRONG!! BMA has never shown interests in developing high-end bicycles and parts needed by the independent bicycle dealers. It would take decades for BMA to produce its first bicycle equal to Japan's quality, meanwhile, 8,000 bicycle shops would be in jeopardy . . . thousands of small businesses would fold.

As you and I both know . . . small businesses are the "backbone" of America.

I ask you to help me defeat this bill H.R. 2226.

Thank you.

Sincerely,

GLENN L. HOUSER, Jr.

HILLCREST BIKE SHOP,
San Diego, CA, June 14, 1985.

WAYS AND MEANS COMMITTEE.

DEAR CONGRESSMAN DAN ROSTENKOWSKI: It has been mentioned that you are holding hearings on H.R. 2226 bill regarding imported bicycles.

We have a small bicycle shop in San Diego. I can tell you that every bicycle dealer that I have talked with is concerned about this bill.

While we do not have lobbying money to come tell you our story; let me say we are very much against this bill.

Please consider what these tariffs will do to all the bicycle dealers and their customers. Higher prices and increased mail order business. The consumer also will be the losers.

Thanks for listening.

ADRIAN J. MCDUNN.

P.S.—We wish to thank you for doing something about the tax problem. Please make the wealthy pay their share!

STATEMENT OF ROBERT R. WIELAND, VICE PRESIDENT AND GENERAL COUNSEL AND SECRETARY, HUFFY CORP.

SUMMARY

Huffy Corporation, the nation's largest producer of bicycles, urges enactment of H.R. 2226, a bill which would amend the rates of duty on imported bicycles and bi-

cycle parts consistent with those rates of duty maintained by the principal exporting nations of bicycles and bicycle parts to the United States. Enactment of this bill is urgently needed by the American bicycle and bicycle parts industries in order to alleviate the serious injury being experienced as the result of the import of low priced bicycles and bicycle parts into the United States. In support of its position urging enactment of H.R. 2226, Huffy Corporation states as follows:

1. Imports of bicycles and bicycle parts into the United States markets threaten to dominate those markets if not limited by effective duties.

2. Domestic manufacturers of bicycles and bicycle parts have suffered severe injury as a result of the ever increasing number of imported products.

3. The enactment of the tariffs proposed in H.R. 2226 will enable United States producers of bicycles and bicycle parts to compete fairly and on an equal basis in the world markets for these products.

STATEMENT

Huffy Corporation, the nation's largest producer of bicycles, is pleased to have the opportunity to submit comments in support of H.R. 2226, which would amend the rates of duty on imported bicycles and bicycle parts consistent with those rates of duty maintained by the principal exporting nations of bicycles and bicycle parts to the United States. Enactment of this bill is urgently needed by the American bicycle and bicycle parts industries in order to alleviate the serious injury being experienced as the result of the import of low priced bicycles and bicycle parts into the United States, principally from Taiwan. In support of its position urging enactment of H.R. 2226, Huffy Corporation states as follows:

1. Imports of bicycles and bicycle parts into the United States markets threaten to dominate those markets if not limited by effective duties.

It takes only a brief look at import trends in the United States bicycle market to understand that imports threaten to dominate the domestic bicycle market if action is not taken to slow the importation of low priced bicycles from abroad. In 1982, just three years ago, bicycle imports accounted for 23 percent of the United States bicycle market. This was a substantial increase over the 17 percent penetration level of 1979. But in 1983, imports jumped to 30 percent of the United States bicycle market, and in 1984, 42 percent of the bicycles sold in the United States were of foreign origin. It is estimated that imports will capture 46 percent of the United States bicycle market this year.

The principal source of imported bicycles today is Taiwan. 77 percent of all imports in 1984 were from Taiwan, up from 71 percent the prior year. The Taiwanese are adding to their bicycle producing capacity, and it is only reasonable to expect that Taiwan will account for an even greater percentage of total imports of bicycles into the United States in 1985. This market share gain is not the result of unique new products or innovations, nor of the result of new technology that has seriously injured other domestic industries. To the contrary, imports have regularly copied the innovative and new products and designs created at great expense by Huffy Corporation and other domestic producers, and have gained market share by distributing such "copies" in the United States at extremely low prices.

The same trends exist in the domestic bicycle parts market. In 1982, the total value of imported bicycle parts was $126,100,000. In 1983, the total increased by 50 percent to $189,500,000. In 1984, over 75 percent of the bicycle parts consumed in this country were from abroad, up from 65 percent in 1983. That trend of increasing penetration appears to be continuing in 1985.

2. Domestic manufacturers of bicycles and bicycle parts have suffered severe injury as a result of the ever increasing number of imported products.

With statistics like those set forth above, it should be obvious that the domestic bicycle and bicycle parts industries have suffered significant injury over the past several years. In 1984, domestic bicycle manufacturers shipped 5,900,000 bicycles, which was 32 percent below the 1979 level, and over 6 percent below the 1983 level. This is especially noteworthy since the total United States bicycle market increased by more than 12 percent between 1983 and 1984. All of the market growth, and part of the market share previously held by domestic producers, went to imports in 1984. This loss of market share by domestic producers is continuing to date in 1985.

This trend has had its impact on employment, with production worker employment in the domestic bicycle industry declining. 1983 industry employment was 20 percent below the 1981 level, and 1984 employment was more than 18 percent below 1983 levels. The bicycle parts industry has been similarly affected with 1984 employment levels only 50 percent of 1980 levels. Obviously, many jobs in the bicycle and

bicycle parts industries have been exported overseas to Taiwan, and the remaining jobs in these domestic industries are similarly threatened.

Financially, United States bicycle producer profitability has been adversely affected by these trends. An International Trade Commission survey of several years ago showed that industry operating income declined from 6.4 percent in 1980 to 0.8 percent in 1981 to a loss of 1.6 percent in 1982, and that was prior to the major assault by imports. Huffy Corporation, the largest domestic manufacturer, is proud that its bicycle production operations have remained profitable in 1984 and 1985 to date. The ability to remain profitable is the result of a highly efficient bicycle plant, a highly productive work force, and the introduction of the latest methods, machinery and other innovations which have enabled it today to produce a better product at a substantially lower cost than was the case five years ago. But even it has suffered substantial deterioration in profitability, and should the trend continue, the levels of profitability which it is able to achieve in the bicycle business may not be sufficient to justify further capital investment in this business.

Huffy's largest competitor in the domestic bicycle industry reported losses in its bicycle business for 1984. While other manufacturers do not report earnings, it is obvious that they have been severely hurt, and several have resorted to importing from overseas a substantial portion of the bicycles which they market in the United States. Relief from this assault from abroad is badly needed if the United States bicycle and bicycle parts industries are to survive and prosper.

3. The enactment of the tariffs proposed in H.R. 2226 will enable United States producers of bicycles and bicycle parts to compete fairly and on an equal basis in the world markets for these products.

As discussed above, Huffy has remained profitable during the period of this major assault from overseas, principally from Taiwan. And it has done so because it operates from a highly efficient, low cost producing facility which it has improved by significant capital investment and the introduction of innovative methods over the last several years. It is not an old, inefficent operation competing with modern efficient manufacturers from abroad, as has been alleged to be the case of a number of other domestic industries. Huffy is not afraid of competition from abroad! But it does believe that it should be afforded the right to compete on an equal basis with its competitors from around the world, and that is what H.R. 2226, if enacted, would help achieve. Taiwan, the major source of imported bicycles in the United States today, can ship bicycles into the United States at duties ranging from 5.5 percent to 11 percent. Yet Taiwan protects its own domestic industry, and in effect shuts out competition from American producers on its own turf, by imposing a 35 percent tariff on imported bicycles. Likewise, while imports of bicycle components and parts from Taiwan are subject to duties of generally 12 percent or less, the Taiwanese component parts manufacturers are protected at home by tariffs of 30 percent. The same unfairness exists in other major bicycle and bicycle parts producing nations. What H.R. 2226 would do is to place the bicycle and bicycle parts producing industries of the United States on a more equal basis in the world market with their competitors from abroad. Certainly, such fairness is needed if these domestic industries are to have the opportunity to prove that they can compete with their foreign counterparts!

Manufacturers of bicycles and bicycle parts in Taiwan and other nations have been given an open door, and an unfair advantage, to destroy American industry through an inequitable system of tariffs. We urge you to rescind that unfair advantage by enacting H.R. 2226.

We appreciate the opportunity to submit these comments to the House Committee on Ways and Means, and will be pleased to provide additional information which the Committee may desire.

HUNT-WILDE CORP.,
Tampa, FL, June 4, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
U.S. House of Representatives, Washington, DC.

DEAR MR. ROSTENKOWSKI: Hunt-Wilde Corporation is a domestic producer of bicycle parts located in Tampa, Florida. We employ 75 to 100 workers and have annual sales of $2,500,000 to $3,000,000. Our company is deeply concerned with the serious injury that the domestic bicycle parts industry and bicycle manufacturers are experiencing as a result of the dramatic escalation of bicycle parts and bicycle imports, especially from Taiwan. We ask your support in co-sponsoring legislation that would

remedy this deteriorating situation by increased the duties on bicycle parts and bicycles.

Our company does not benefit from any of this import marketing. With all the imports of bicycle parts and bicycles coming into the U.S.A. our share of the market has dropped drastically for parts and accessories ordered from our domestic bicycle manufacturers, distributors, and the after market of the chain and discount stores. Total imports of bicycle parts grew during the period, from $126.1 million in 1982 to $187.5 million in 1983, a growth rate of 49 percent. The increase continued in 1984, and is up again for the first quarter of 1985.

In the past three years, imported bicycles have claimed an increasing shared of the U.S. market; from 23 percent in 1982, to 30 percent in 1983 and 41 percent in the first 11 months of 1984. Without import relief, it is predicted that that imports will capture 45 percent of the U.S. market in 1985. As a result of this dramatic surge in imports, it is estimated that production worker employment in the bicycle industry dropped 18 percent between 1983 and 1984, with employment in the supplier industry down by 50 percent during the last four years. Moreover, domestic producers have been forced to close production facilities. Indeed, since 1980, seven bicycle production facilities have shut down and several manufacturers of bicycle parts have abandoned the industry.

These industry-wide statistics demonstrate clearly what low-priced imports have done to these important American industries and their workers. However, our company has suffered as well. Hunt-Wilde Corporation for a number of years supplied a great share of the after market of the items we manufacture.

Today, K-Mart, Zayre's, Sears, Montgomery Ward, etc. are all 90–100 percent import on bicycle accessories and parts. With the cheap labor and small duties on bicycle parts and bicycles it has become impossible for us to receive any great amount of business we used to enjoy with these companies. In fact, the outlook is very bleak for us to remain in the bicycle industry selling the bicycle manufacturers, distributors and other outlets mentioned before. We can see the total business in the bicycle parts industry and bicycle manufacturing being purchased mainly from Taiwan in less than two years, leaving us with no other alternative than to close our doors.

We need your help. The U.S. bicycle parts industry and it's customers (the bicycle manufacturer and other mentioned accounts) are not only essential to the recreation and health of the American people, they are also essential to the thousands of people who depend on the industry for jobs. The dramatic escalation of imports must be stabilized if this industry is to survive. H.R. 2226 would accomplish this by increasing the rate of duty on imported bicycle parts and bicycles to a rate comparable to the tariffs on these same products maintained by those countries who are taking advantage of the openness of the U.S. market. The legislation is fair and, if enacted, would re-establish the appropriate balance of imports to domestically-produced bicycle parts and bicycles and save thousands of U.S. jobs.

We appreciate your attention to this urgent matter and urge you to co-sponsor H.R. 2226. We also agree with H.R. 2350 and H.R. 2298, and ask your support on these other Trade bills.

Sincerely,

W.L. WILDE, *President.*

IMPERIAL BEACH SCHWINN,
Imperial Beach, CA, June 20, 1985.

DEAR REPRESENTATIVE: As a member of the Subcommittee on Trade of the House Ways and Means Committee you should be aware of the total injustice of proposed bill, H.R. 2226. I am an independent retailer of bicycles, parts and accessories. We also provide expert service to our customers, as well as the best possible products. Unfortunately, American bicycle manufacturers no longer put out a quality product which is the only reason we handle mostly imported brands or Schwinn approved products.

However, the problem lies in the fact that these inferior American companies have paid lobbyists to promote the above mentioned bill for their own undeserved profit and our detriment. Consequently the bill is unfair on us small businesses. Please vote against H.R. 2226 and see that a moratorium is placed on similar efforts in the future until proper equality is administered to all concerned.

Sincerely,

THOMAS A. GENTILELLA.

STATEMENT OF BILL ALBERGER, COUNSEL, JAPAN BICYCLE ASSOCIATION

SUMMARY

1. The association opposes H.R. 2226, a bill that would increase tariffs on imported bicycles and certain bicycle parts.

2. Japanese bicycles are priced higher than U.S. bicycles, and do not compete in the same market.

3. Tariff increases would more seriously impact prices of Japanese bicycles, and thus have an adverse impact on American consumers.

4. Such tariff increase legislation runs contrary to U.S. obligations under the General Agreement on Tariffs and Trade.

5. Any tariff relief should be targetted only at directly competitive merchandise. High-valued bicycles could be excluded by price breaks, such as all bicycles below $70 F.O.B. would be subject to higher tariffs.

6. Japan Bicycle Association urges rejection of the legislation unless it is amended to exclude high-valued bicycles and bicycle parts from the coverage.

STATEMENT

The Japan Bicycle Association submits this statement in opposition to H.R. 2226, "a bill to amend the Tariff Schedules of the United States to provide for rates of duty on imported bicycles and bicycle parts consistent with those rates of duty maintained by the principal exporting nations of bicycles and bicycle parts to the United States, and for other purposes."

For many years, Japanese bicycle manufacturers have exported bicycles and bicycle parts to the United States. Japanese-made bicycles are offered for sale in the United States at prices that are significantly above the prices of U.S.-made bicycles and the high volume exports from other countries. Japanese bicycles have a well-deserved reputation as very high-quality products, and have an enthusiastic clientele in the United States. This legislation calls for substantial increases in the ad valorem tariff on imports of bicycles and bicycle parts. Ad valorem tariff increases have a much greater impact on higher-priced models, such as bicycles from Japan. Such a tariff increase would most definitely lead to sharp and unjustifiable increases in the wholesale and retail prices of Japanese bicycles. And, for what possible benefit? Japanese bicycles are not competing in any of the same prices ranges as American-made bicycles. The consumer of Japanese bicycles would bear the burden either of sharply higher prices or lack of availability of product because of the reduced demand at the higher prices. We see no justification for such a tariff increase.

We would note that any unilateral tariff increase by the United States must be justified under internationally agreed upon trading rules under the General Agreement on Tariffs and Trade ("GATT"). Any increase in duty must be justified under the escape clause procedures in Article 19 of the GATT as a temporary measure to allow a domestic industry time to adjust to import competition. This legislation bypasses such more proper procedures.

It is our view that any relief program designed to benefit U.S. manufacturers of bicycles and bicycle parts should only target products that are price competitive with the U.S. industry. Thus, at the very least, H.R. 2226 should exclude bicycles entering the United States at an F.O.B. value of $70 or more. We are studying the various parts provisions to determine similar price points that are below almost all F.O.B. prices of such parts from Japan and above comparable price levels of American-made bicycles. When we have such information, we will be pleased to provide it for the Committee.

As H.R. 2226 is presently drafted, we must urge that the Subcommittee on Trade of the House Committee on Ways and Means reject the legislation. If the bill were properly amended to exclude high-valued bicycles and parts made in Japan, we would take a more neutral position on the merits of the legislation. We do not want to see our good customers in the United States adversely impacted when there is no countervailing benefit to U.S. manufacturers who do not compete directly with the bicycles and bicycle parts manufactured in Japan.

KARIM CYCLERY,
Berkeley, CA, June 28, 1985.

SIRS: I am writing in regard to proposed bill H.R. 2226. I am an independent bicycle dealer in California. This is a protectionist measure designed by Murray-Ohio and Huffy Corporation to protect their own interests and profits.

The bicycle industry as it exists today is heavily dependent on steel tubing and components from Japan, labor from Taiwan and rubber from Korea. This bill if passed would heavily (and unfairly) tariff these items, shifting the balance of this industry to favor these giant manufacturers and mass merchants. They supply the market with cheap, low quality, disposable bicycles that are not cost-effective to service.

The American consumer and independent dealers, who service bikes, would be forced to live with an inferior product or pay inflated prices for high quality Japanese bicycles and components. The market would suffer, many jobs in importation and distribution might be lost. In this light I hope you and your colleagues will see through this special interest lobby effort and defeat in committee.

Thank you.

ADLAI KARIM, *Bicycle Dealer.*

MISSION CYCLERY, INC.,
Mission Viejo, CA, June 27, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
U.S. House of Representatives, Washington, DC.

DEAR SIR: As an independent bicycle dealer I am very concerned about House Bill H.R. 2226 to increase the tariff on Imported Bicycles and parts to 19 percent. An increase of this nature would certainly be a detriment to my business, thousands of other dealers across the country, and to the entire cycling industry in general. With bicycles presently between 5.5–11 percent and components 5–15 percent, this inflationary measure would decrease our sales in favor of mass merchants.

On behalf of myself and other Independent Bicycle dealers who depend on this market for our livelihoods, I urge you to represent us in opposing this drastic increase.

Sincerely,

ALAN E. HOOD, *Manager.*

STATEMENT OF RICHARD M. OLKEN, PRESIDENT, NATIONAL BICYCLE DEALERS ASSOCIATION

The National Bicycle Dealers Association opposes H.R. 2226 for the same reasons that it opposed H.R. 5754 last year. It is the position of the NBDA that any increase in duties on foreign bicycles and components would be damaging to the competitive position of some 7000 independent bicycle dealers, and would be costly and unfair to the millions of customers they serve.

Independent servicing bicycle dealers stock, sell and service a broad range of quality imported bicycles and bicycle products to serve their enthusiast customers. These products are not available from domestic manufacturers who primarily produce low-cost bicycles for distribution through non-servicing mass merchandise outlets. It is the opinion of the National Bicycle Dealers Association that the drastic and arbitrary duty increases proposed by H.R. 2226 are discriminatory against servicing dealers and their customers, and would endanger a far greater number of retailing jobs than the number of domestic manufacturing jobs it purports to protect. This country's bicycle dealers employ nearly 30,000 Americans.

Of course, ultimately it is the consumer who pays when Congress serves the special interests of the manufacturing minority. Increased duties are inevitably passed through from importer, to distributor, to dealer, to consumer.

The National Bicycle Dealers Association is vitally concerned with expanding the overall bicycle market by stimulating consumer interest and involvement. Individual bicycle dealers have always taken the lead in promoting the safe enjoyment of all aspects of cycling in their communities. Increased prices can only discourage overall consumer enthusiasm and weaken the bicycle industry's competitive position with respect to other recreational industries vying for the consumer's discretionary dollars.

The National Bicycle Dealers Association finds H.R. 2226 to be anti-competitive, divisive, and contrary to the interests of its dealer members as well as to the strength and unity of the bicycle industry at large.

NORTHWEST ALABAMA CYCLERY,
Florence, AL, June 25, 1985.

DEAR DAN: It has come to my attention lately that an effort has been mounted to increase tariffs on imported bicycles and bicycle parts. This appears to be an attempt to "help" the American bicycle industry by slowing the flow of superior goods in order to favor the consumption of inferior products. I personally don't believe this is the way to "help" American industry via legislation. When American industry rises to compete on a quality basis with foreign goods and equals or exceeds them, then consumers the world over will clammer for our products. I look forward to the day that I can sell American bicycle products which exceed that available elsewhere. Until that time, please do not obstruct good healthy competition which improves the breed. Allow our industry to get up off their posteriors and show the Japanese, Italians, French and English that we can produce superior products without the need for punitive legislation.

Please work to defeat H.R. 2226.

Warmest regards,

ALVIN FARRAR.

PEYTON'S BIKES, INC.,
Midland, TX, June 27, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

MR. DOWLEY: As an independent bicycle dealer and a consumer, I am concerned about house bill HR 2226 which proposes a blanket increase on tariffs on all imported bicycles and parts to 19%. This bill will create an artificial inflation of the price of bicycles and parts that is unnecessary.

Currently there is very little competition in the United States for a quality lightweight bicycle, especially ten speeds. But the BMA, which for the most part produces bicycles for the low end, mass merchant market, wants prices raised on all bicycles including precision racing and touring bikes which they cannot produce. The same is true of most bicycle parts. There is no domestic source for coaster brake hubs, 10 speed cog assembly, caliper brake sets, quality 10 speed hubs or derailleurs to name just a few. Yet this bill proposes to raise the price on all of these items. A tariff is supposed to protect domestic manufacturers from unfair price advantages with foreign producers. These items are not even produced here and the foreign market only provides healthy competition for the items that are produced in America.

As a bicycle dealer, I am in business to try to give our customers the best product I can find at the best price. A tariff such as the one proposed would artificially raise the price of all bicycles, including those produced in the United States, since they must also use imported parts. The ones that would be affected the most, however, are the top quality bikes used by the serious bicycle enthusiast, our customers. Prices for these bicycles would jump drastically for no good reason, since there is virtually no competition for their production in the United States.

Bicycling is one of the fastest growing "life sports" in the United States. An increase in the price of quality bikes and parts used by the serious bicyclist would only slow the growth of a sport that is not only enjoyable to millions of Americans, but is also important to the physical health and conditioning of many. I urge the Committee on Ways and Means to oppose HR 2226 and the artificial inflation that it would cause.

Sincerely,

DAVID HAM.

RALEIGH CYCLE CO. OF AMERICA,
Dayton, OH, June 19, 1985.

Hon. DAN ROSTENKOWSKI,
U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. ROSTENKOWSKI: I have never written a letter of this type before, but I feel that I cannot be silent any longer. I am in support of the following two separate bills being introduced to Congress.

H.R. 2226 which will increase the duty on imported bicycles to a level equal to our export duty.

H.R. 3298 which will suspend duties paid on various bicycle parts to help U.S. manufacturers compete with foreign manufacturers.

I am not in favor of H.R. 2350 which will suspend duties on certain bicycle parts and prevent the use of Foreign Trade Zones.

I am asking you to support my position so that the American Bicycle Industry is competitive.

Sincerely yours,

JAMES A. BALDO,
Vice President, Sales.

[A letter identical to that above was also received from Judy Montgomery.]

ORANGE CYCLE WORKS, INC.,
Orlando, FL, June 21, 1985.

MEMBERS OF THE SUBCOMMITTEE ON TRADE OF THE HOUSE WAYS AND MEANS COMMITTEE OF THE 99TH CONGRESS.

DEAR REPRESENTATIVES: As an independent bicycle dealer, I am very concerned about House Bill H.R. 2226, to increase the tariff on imported bicycles and parts. Formerly introduced in 1984 by Congressman William Boner, on behalf of the Bicycle Manufacturers of America, as House Bill H.R. 5754 to increase the duty on imported bicycles and parts to 24 percent, the new House Bill H.R. 2226 proposes an increase to 19 percent.

If this bill is passed it will threaten the approximately 7,000 family businesses that depend on that market for their livelihoods. The inflation that would result in the cost of bicycles and accessories would make it very difficult for me as a dealer to sell the market share I am currently selling, thus losing my business to chain stores and mass merchants.

There are several arguments put forward by the Bicycle Manufacturers of America that at surface value would appear to express some valid concerns in favor of H.R. 2226. However, a closer look at the facts and statistics surrounding these issues reveals a situation which obviously contradicts B.M.A.'s standpoint.

With this in mind, I would like to provide some information regarding B.M.A.'s foremost concerns. B.M.A. claims they are suffering serious injuries because of imports, however, a look at 1984 shows an all-time record year of high profits for Huffy and Murray. Huffy sales up 25 percent; profit up 1,000 percent. B.M.A. claims that Taiwan has targeted the U.S. market because of its low duty and big volume, however there would be no opening for Taiwan if B.M.A. members ever seriously addressed the needs of the independent Bicycle Dealers' market. Taiwan got market share from B.M.A.'s default. B.M.A. claims that 15,000 jobs will be lost unless H.R. 2226 passes. A look at Huffy and Murray financial statements show no job losses due to reduced business, only plant consolidation due to automation. This claim ignores the 24,000 skilled labor jobs in bike shops that are jeopardized by H.R. 2226.

These are but a few of the inconsistencies in B.M.A.'s appeal for a raise in tariffs. On behalf of myself and other independent Bicycle Dealers who depend on this market for our livelihoods, I urge you to represent us in opposing this drastic increase.

Sincerely,

HOWARD LARLEE, *Owner and Manager.*

STATEMENT OF CHARLES D. RODENBERGER, PRESIDENT, RODEBIKE, SAN JOSE, CA

SUMMARY

H.R. 2226 is essentially a reintroduction of H.R. 5754 which was allowed to die last term. It is designed to protect some American bicycle manufacturers from something they have not, and will not try to compete against, but would prefer to legislate off the market.

This bill would deprive the American bicyclist of the opportunity to choose a quality product at a reasonable price.

H.R. 2226 purports to preserve and create jobs for Americans, when in reality it will probably destroy more jobs in the U.S. than it could ever hope to create.

I strongly urge rejection of this bill on the basis it would unfairly benefit only a few manufacturing companies at the expense of the American bicycling public.

STATEMENT

Once again, the American bicycle manufacturers, led by Huffy, Murray and Roadmaster, are trying to legislate quality bicycles off the market, rather than try to compete with them. The product they would protect is already the most predominant on the market, sold at low prices in great quantity through non-servicing mass merchandisers. It bears little resemblance to the product they propose to tax at such extreme levels. A trip through K-Mart, Toys R Us, or Sears, followed by a visit to two or three specialty bicycle shops will make that clear to any objective observer. My own store is a good example. We are located across the parking lot from Toys R Us. During the Christmas season especially, they will sell more bicycles in a day than we will in the entire month. Neither one of us however considers the other as a competitor, as it is clear that we sell different products to a different market. Some of their employees are avid bicyclists, but own nothing sold there.

If the products are non competing, then why the effort to tax them? The US manufacturers have always regarded bicycles as 'toys for kids' to be made as cheaply as possible. Manufacturers from countries where bicycles are taken seriously as transportation and recreation, along with American importers and servicing dealers, have worked hard to fill the void left by that attitude. The US manufacturers recognize that segment of the market. Rather than try to supply it by expanding and improving their product offering, they try to capture it through advertising and promotion. They have demonstrated that they can't or won't produce a quality product. Instead the try to change the definition to include their current standard product. This was most noticeable in 1983 and 1984 when two of them touted their new 'high spec' bicycles. These were nothing more than their usual fare wrapped up in a new marketing campaign making much mention of their purchased rights to the Olympics. They would have the public believe that their bicycles were the bicycles of the Olympics. Some people were fooled by Olympic insignia decals and hype, but any who know and understand bicycles were not. As the promotion route has not been as successful as they would like, they are now looking to legislation to eliminate the quality product, in hopes to enlarge their market potential. If you tax import bicycles excessively, some consumers will settle for the lesser product, and some will drop out of the market altogether. Neither group will have been well served by the taxers.

The proponents of this bill claim jobs will be saved and more created in the US bicycle industry. They would have you believe that they are in US bicycle industry. This ignores the large number of people employed in the import, distribution, retailing and servicing of imported bicycles. It ignores the people employed in the manufacture of aftermarket accessories and clothing for bicycles and bicycling. People in this segment of the business outnumber those employed by US bicycle manufacturers, and the jobs to be saved or lost in this segment would outnumber those to be saved or created by the US manufacturers. The US manufacturers claim to be the US bicycle business, only because manufacturing of bicycles is concentrated in these three companies. The larger part of the business is spread over many small independent businesses. These businesses are not so evident to government because they prefer to compete in the market place rather than beg for legislation. Most of them are very small and could not afford full time legislative proponents as the major manufacturers. Never the less they are a substantial portion of the business and deserving of consideration.

This proposed legislation would not benefit the American public, but would deprive them of a worthwhile mode of transportation and recreation. The only beneficiaries of this legislation would be the few companies who are seizing on a current interest in protectionism to eliminate against this bill as a means of doing the most good for the most American people.

ROYAL BIKE SHOP,
Lake Charles, LA.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIR: Again I'm writing to ask you for your help in fighting the bill proposed by William Boner of Tennessee. Last year it was H.R. 5754 and now it is H.R. 2226.

We are opposed to this bill as being inflationary and detrimental to our continuing business of selling quality bicycles and offering service for the last 26 years.

Passage of H.R. 2226 would increase retail prices in our store beyond the competitive level which we are finally able to achieve.

Our business offers personal service to the consumer in the way of proper sizing, information on quality product, free assembly and a bike adjusted ready to ride. All this our customers except and cannot receive from a mass merchant.

We are a small business taking care of home people. In order to continue our business as we know it H.R. 2226 must not become law.

Our business is at Stake!

Sincerely,

Mrs. L. CLAY ANDERSON, *Manager.*

ROYCE-UNION CO.,
Hempstead, NY, May 30, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIR: This letter is written in our behalf regarding Bill H.R. 2226 sponsored by Representative Boner to increase duty rates on bicycles and bicycle parts.

The concept of this bill is disgraceful and is an outrage for the American Consumer and Independent Bicycle Dealer.

The "pushers" of this legislation are two or three "fat cats" who already dominate the bicycle business selling (by their own admission) between 50–60% of the market.

In addition, these same factories (Murray Ohio and Huffy) sell their bicycles mainly to mass merchandisers who are the least qualified to assemble and service bicycles.

The passage of this legislation will wreak havoc on the small bike dealers.

In addition, the passage of this bill will result in foisting poorer quality bicycles at higher prices on the American public.

In the interest of real consumer protection, please direct your efforts to defeating this legislation.

Sincerely,

H.R. DIETZ, *President.*

STATEMENT OF JAY C. TOWNLEY, COUNSEL, SCHWINN BICYCLE CO.

SUMMARY

1. H.R. 2226 will increase ad valorem tariffs on bicycles and bicycle parts to 19 percent. These tariffs currently range from 5.5 to 11 percent for bicycles and 5.6 to 11.7 percent for bicycle parts.

2. The bill is supported by the three member companies of the Bicycle Manufacturers Association ("BMA")—Huffy Corporation, Murray-Ohio Manufacturing Company and Roadmaster Corporation—who comprise over 80 percent of the domestic industry. Most of their domestic production goes to the mass merchandisers. Most imports, on the other hand, are sold through independent bicycle dealers ("IBD").

3. H.R. 2226 will have an extremely adverse impact on over 7,000 to 8,000 small independent bicycle dealers who employ an estimated 30,000 people, and consumers who will either have to pay much more for a bicycle, forego the purchase, or buy a lesser quality bicycle from a mass merchant (supplied by the bill's supporters).

4. The bill is a blatant attempt by Huffy to disadvantage Schwinn in the IBD segment. Huffy's Raleigh brand bicycles sold through bike shops, which have been imported from Taiwan for years, will be produced in the U.S. beginning this summer. Schwinn, which is Raleigh's chief competitor in the IBD, would pay greatly increased duties under the bill.

5. The bill's proponents have failed to follow the generic procedures established by Congress for claims of harm of this sort—Section 201 of the Trade Act of 1974, 19 U.S.C. § 2251 (the "escape clause").

6. The financial state of the proponents does not justify this extraordinary relief. Huffy posted its highest per-share earnings in 1984 of the past four fiscal years; its domestic manufacturing plant is currently running at near capacity. Murray-Ohio has reported substantial net profits for each year of the past decade; 1983 was a record profit year corporate wide and in bicycles. The ITC, in a 1983 antidumping case brought by BMA, found that Taiwanese and Korean bicycles caused neither injury nor a threat of injury to the domestic industry.

7. The Antitrust Division of the Justice Department is investigating the BMA companies for alleged improper attempts to restrain import competition.

8. Passage of H.R. 2226 would require compensation to bicycle exporting countries. Bicycles are "bound" under GATT. Unilaterally increasing bound tariffs entitles affected countries to compensation or retaliation. The cost of compensation or retaliation would be unfairly borne by other U.S. industries who are exporting to those countries.

9. Schwinn urges you to vote "no" on this anticompetitive and unnecessary legislation.

SCHWINN'S COMMENTS IN OPPOSITION TO H.R. 2226

Schwinn Bicycle Company, which is both a domestic manufacturer and an importer of bicycles, strongly opposes H.R. 2226. This controversial bill to increase substantially the tariffs on bicycles and bicycle parts would harm: (1) American consumers forced to pay higher prices for their bicycles; (2) independent bicycle dealers (IBD's) who sell most of the imports; (3) Schwinn and other companies which supply the IBD segment of the bicycle market; and (4) some undetermined American export industry which would bear the brunt of GATT sanctioned foreign retaliation.

The bill would increase the tariffs on complete bicycles now ranging from 5.5 to 11 percent ad valorem, to 19 percent. The ad valorem tariffs on bicycle parts would also be increased to 19 percent from their current range of 5.6 percent to 11.7 percent.

A. H.R. 2226 would harm the IBD segment of the market

The primary supporters of the bill are the Bicycle Manufacturers' Association of America ("BMA") and its three member companies, Huffy Corporation, Murray-Ohio Manufacturing Company and Roadmaster Corporation. These three companies, which enjoy approximately 80 percent of domestic production, predominantly supply mass merchandisers such as Sears, Montgomery Ward, J.C. Penney, Toys R Us and chain and department stores. Approximately 70 percent of all U.S. bicycle sales are made through this mass merchant segment.

The other 30 percent of sales are made by 7,000–8,000 independent bicycle dealers who sell generally more expensive, higher quality bicycles, most of which are imports. These small businessmen fit the bicycle to each consumer, assemble the machine, provide warranty service and serve the after market. Schwinn estimates that approximately 30,000 persons are employed in the IBD segment, more than are employed by the BMA members in bicycle production. Schwinn alone has over 1,900 authorized dealers.

Because of their heavy reliance on imports, the tariff increase in H.R. 2226 would devastate independent bicycle dealers and the channel of trade that they serve. Schwinn estimates that the proposed duty increase would inflate the retail price of a $200 bicycle by $20–$25. A consumer faced with this kind of "sticker shock" has a number of options: (1) pay the inflated price, (2) buy a bike of lesser quality for a lower price, (3) buy a lesser quality bicycle which is not burdened by extra duty costs from a mass merchandiser, or (4) use disposable income for other products such as video games or computer accessories.

Bicycle dealers are convinced that significant numbers of their customers would choose the second, third or fourth options. These concerns are significant, particularly because of the large numbers of young families and teenagers with limited disposable incomes who make up the bicycle consumers. As a consequence, bicycle dealers are overwhelmingly opposed to the bill. Serious cyclists, who buy primarily from the IBD, have also gone on record objecting to this proposed "tax" on their machines.[1]

B. The bill would severely disadvantage Schwinn

The bill would also have a very negative impact on Schwinn. Schwinn produces bicycles at plants in Greenville, Mississippi and Waterford, Wisconsin, but imports the majority of its stock from Japan and Taiwan. Importation is not new for Schwinn; its import program began in 1972. The tariff increases proposed by BMA would threaten the continued viability of the Company, jeopardizing its domestic operations.

The threat to Schwinn is highlighted by the position of Raleigh, its main competitor in the IBD. In its 1983 annual report, Huffy stated:

---

[1] See "Tariff Bill Reintroduced", Bicycle USA magazine, June, 1985 at 5.

> [In 1983] . . . Huffy Corporation entered into a long term licensing agreement with T.I. Raleigh Industries, Ltd., of England, permitting Huffy the exclusive right to manufacture, market and distribute Raleigh® products in the United States. *The agreement provided a means of entry for Huffy Corporation into the bicycle specialty shop market.* (Emphasis supplied)

Huffy began importing substantial quantities of "Raleigh" brand bicycles from Taiwan in 1983 for the IBD channel of trade, a market segment which Huffy could not effectively penetrate with its traditional domestic production.[2] In an August, 1984 article in Bicycle Dealer Showcase, Mr. Robert Weiland, Vice President and General Counsel of Huffy, explained the motivation behind H.R. 5734,[3] a similar proposal introduced in the last Congress: ". . . Huffy hoped to repatriate production of the Raleigh line to the U.S. in the future. 'The additional duty would act as an encouragement to speed that up', he said." Shortly after the introduction of H.R. 2226, Huffy announced that production of its Raleigh line would be moved to a new plant in Kent, Washington.[4] The competitive advantage to Raleigh, if Schwinn bicycles and other imported merchandise in the IBD were burdened with unusual tariffs of 19 percent, is obvious.

C. Other U.S. industries would bear the brunt of foreign compensation or retaliation

Passage of H.R. 2226 would also wreak havoc with some currently undetermined American industry whose voice will not be heard in these proceedings. Article XIX of the General Agreement on Tariffs and Trade entitles exporting countries to compensation when the importing country unilaterally provides import relief to a domestic industry in the form of increased tariffs on "bound" items such as bicycles and bicycle parts. Compensation usually takes the form of reduced tariffs on other products entering the United States from the countries affected by the tariff increase. Such compensation inevitably has a deleterious effect on the other American industries which face increased import competition.

Moreover, if acceptable compensation were not fashioned, our trading partners—France, Italy, the United Kingdom, Taiwan and Japan—would be entitled under GATT to take retaliatory action against United States exports in the form of increased duties or numerical restraints. This kind of retaliation would impact another United States industry that is doing a good job with exports, penalizing it solely to protect and promote the profit margins of the BMA member companies. What industry does BMA propose to sacrifice for the passage of H.R. 2226?

D. The fianacial position of the domestic industry does not justify this extraordinary relief

The recent performance of the domestic bicycle industry does not support the drastic measures embodied in H.R. 2226. Huffy, which accounts for about 40 percent of the domestic industry, reported 1984 per share earnings of $1.57, the highest figure for the past four fiscal years. Just last year, Huffy undertook a repurchase of 200,000 of its own shares in the open market. Huffy's bicycle production facility in Celina, Ohio, is reportedly operating at near capacity, due to a strong order and sales pattern.[5] Huffy has between $18–$20 million dollars in short term investments and cash, and is seeking acquisitions. This is not the portrait of a company withering from import competition. Huffy's announcement that it will bring production of its Raleigh bicycles to the United States totally contradicts the assertion that the U.S. industry cannot complete with imports. Huffy, for its own reasons, has decided to eschew the supposedly low priced Raleigh bicycles of Taiwan in favor of domestic sources which are subject to price depression from imports.

Murray Ohio, with 35 percent of the domestic industry, has posted a substantial net profit for every year in the past decade. In 1983, it had record earnings and sales in its bicycle business and corporate wide. While the 1984 picture at Murray has deteriorated somewhat, several factors aside from imports are at work. First, Murray incurred unusual expenses in 1984 in promoting and sponsoring the Summer Olympics. Second, Murray has been unresponsive to the needs of its customers. For the last two years, Schwinn contracted with Murray to build Schwinn bicycles on Schwinn machinery at the Murray plant. This arrangement will be ending shortly because of Murray's inability or unwillingness to produce the type of

---

[2] In 1984, 1.7 percent of bicycle dealers carried Huffy brand products, while 20.6 percent carried the Raleigh line. See Bicycling Magazine's "1985 Study of U.S. Retail Bicycle Stores."

[3] Schwinn opposed H.R. 5754.

[4] See United States International, Regional News, May 16, 1985 (P.M. Cycle).

[5] See "Huffy Continues to Experience Significant Bicycle Import Pricing Pressures; Incoming Orders Remain Strong", Business Wire, April 2, 1985, at 9.

product which Schwinn wants. Third, Murray, and perhaps other domestic manufacturers, are losing sales to new American competitors—assemblers who put bicycles together in this country but who do not manufacture the frames. Despite Murray's current difficulties, the Company informed its shareholders that "[w]ith a stable economy, bicycle sales should improve in 1985." [6]

The third BMA member company, Roadmaster Corporation, is a privately-held firm for which financials are not available. Roadmaster reportedly holds a five percent share of the domestic industry. In the past, Roadmaster complained that the source of its difficulties was the "predatory pricing practices" of its BMA co/members.

E. Substantial bicycle imports are not a recent development

Although imports have a substantial share of the domestic bicycle market,[7] this is not a recent development and must be placed in historical perspective. Importation of bicycles in significant quantities began approximately 30 years ago. Bicycle imports for both 1972 and 1973 were more than 450,000 units higher than during 1984.

These historical patterns are of even more significance when one considers that Schwinn accounts for the largest percentage of imports and that Huffy is a major importer. From 1954 to 1971 Schwinn produced all of its bicycles in the United States and comprised between 17 and 26 percent of the domestic industry. Schwinn's extensive import program from Taiwan began only in the 1980's and now provides approximately 80 percent of the Schwinn bicycles sold domestically. In addition Huffy began importing Raleigh bicycles in 1983 and recently credited the Raleigh program for a "significant" increase in its penetration of the IBD market segment.[8]

F. BMA should use the "escape clause" procedure of the trade laws to seek relief

Congress has established a generic procedure for addressing claims of harm due to increased imports. Section 201 of the Trade Act of 1974 (19 U.S.C. § 2251), the so-called "escape clause", provides a procedure whereby an industry can petition the International Trade Commission, for relief from increased imports. Under this procedure, an allegedly injured industry outlines its claims and presents a plan for re-establishing its competitiveness. This procedure has several advantages. First, it avoids the ad hoc consideration by the Congress of individual industries' shifting and perceived claims of harm. Second, it provides interested parties with procedures, such as cross-examination and expert analysis, to fully explore the merits of the claims. BMA has not chosen to use this remedy for its claim of harm from fairly traded imports.

Perhaps the reason for avoiding the ITC is that less than two years ago, the International Trade Commission thoroughly reviewed BMA's claims of harm from allegedly unfairly traded bicycles from Taiwan and Korea and found these assertions to be groundless. The ITC, in its preliminary determination, found no injury or threat of injury by reason of imported bicycles from Korea and terminated that proceeding. (Bicycles from the Republic of Korea, Investigation No. 731-TA-110 (Preliminary); USITC Publication 1311, November, 1982.) The Taiwanese investigation concluded when the ITC made a final determination of no injury or threat of injury by reason of bicycle imports from Taiwan. (Bicycles from Taiwan, Investigation No. 731-TA-111 (Final); USITC Publication No. 1417, August, 1983.)

G. The Antitrust Division of the Justice Department is investigating BMA

We also note with great concern that the BMA companies are currently under investigation by the Antitrust Division of the U.S. Department of Justice. The investigation reportedly centers on their alleged improper attempts to restrain import competition from foreign bicycles. Schwinn believes that the same anticompetitive motivations underlie some of the support for H.R. 2226.

H. BMA has repeatedly received preferential tariff treatment from Congress

BMA and the American bicycle industry have received a number of legislative trade concessions over the years to protect their positions. Unlike the vast majority of other domestically-produced items, most bicycles were exempted from the 1979 Tokyo Round of tariff reductions. Moreover, bicycles are not, and have never been

---

[6] See 1984 Annual Report of the Murray Ohio Manufacturing Company, at 9.

[7] Import share of the domestic bicycle market is probably overstated because domestic statistics do not include bicycles produced by assemblers in the United States (e.g., Bicycle Corporation of America, Kent International, etc.).

[8] See Business Wire, supra, at 9.

GSP-eligible.[9] Finally, the industry has requested and secured the passage of five separate pieces of legislation exempting selected bicycle parts from import duties. The domestic industry has received more than its share of preferential treatment from Congress.

CONCLUSION

The increased tariffs on bicycles and bicycle parts proposed in H.R. 2226 would have a devastating impact on: (1) nearly 8,000 independent bicycle dealers throughout the country who employ at least 30,000 people; (2) the American consumer who will be forced to either pay substantially more for a bicycle or forego the purchase entirely; (3) Schwinn Bicycle Company and other companies serving the IBD; (4) the undetermined sacrificial American industry which would be forced to provide "compensation"; and (5) American companies reliant on foreign export markets.

Schwinn submitts that this highly unusual legislation is not only unnecessary, but totally inappropriate. The unfair benefits to be derived from the bill by the goliaths of the industry should not be paid for out of the pockets of small businesses, consumer and other sectors of the economy.

Schwinn urges the Subcommittee to vote "no" on this controversial legislation.

SUN METALS PRODUCTS, INC.,
Warsaw, IN, June 21, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

GENTLEMAN: Sun Metal Products, Inc., is a 40 year old, established manufacturer of rims and spoke wheels for non-automotive applications. We have a modern, efficient facility with all of the latest equipment and methods for producing our line of products.

A large portion of our output is bicycle rim and wheel assemblies, sold to the United States bicycle manufacturers, such as: Huffy, Murray, Roadmaster, Columbia, Ross, Cannondale, Trailmate, and others.

The survival of these listed manufacturers is our survival, as well. Without them we would have only limited sales to the replacement market, which could not sustain us.

As a rim manufacturer, we have lost our export market, which at one point, was 10% of our sales, due to the dual barriers of an over-valued U.S. Dollar and Foreign Import Restrictions.

At the same time, the U.S. tariff protection for our product is dropping from 15 percent to 6 percent, which is difficult to overcome even with the most productive equipment, tooling, and people.

Far worse is the rapid loss of production needs by our bicycle manufacturing customers. Their import competiton is far more devastating even than ours, with 42 percent of the U.S. market being supplied in 1984 by imports. In 1985, imports continue to grow with further reduction in market share for our customers.

We strongly urge positive consideration and passage of H.R. 2226, not necessarily as a form of protectionism, but as a means of establishing equitable tariffs consistent with these that we and others U.S. manufacturers face when we attempt to export quality U.S. goods to willing overseas markets.

The loss of jobs within the U.S. bicycle and parts trade is already huge, and will become permanent and even more devastating, if prompt action is not taken. We have fully one-third of our employees laid off, while the rest of us are working short weeks. Several of our major customers are even worse, with no expectation of improvement.

For specific statistics, we refer you to a brief filed by Cycle Parts and Accessories Association, Inc.

Respectfully submitted.

CONRAD R. ANDERSON,
Vice President and General Manager.

---

[9] H.R. 2226 would legislatively add bicycles to the list of articles ineligible for GSP. This would be a hollow act, since bicycles have been ineligible for GSP treatment since 1975 by Presidential Order.

SUNKYONG INTERNATIONAL, INC.,
Moonachie, NJ, June 25, 1985.

DAN ROSTENKOWSKI,
Rayburn House Office Building,
Washington, DC.

DEAR MR. ROSTENKOWSKI: On behalf of all of the employees at Sunkyong International, the employees of our distributors and sales people, we urge you to oppose the bill H.R. 2226 introduced by Mr. Boner of Tennessee.

This bill provides for an increase in duty on all bicycles and bicycle parts to 19 percent.

The result of this legislation, if passed, would be to penalize the independent bicycle dealer and all of the dealer's suppliers, from the importer, to distributor, to the independent sales representative who make their living selling high quality imported bicycles and bicycle parts and accessories.

The products these people sell are purchased in service-oriented, small retail outlets by well trained, dedicated hard working American citizens. The imposition of this additional duty begs the question: Why should their jobs be jeopardized by the imposition of this 19% duty amount?

Is it better to sacrifice these jobs and effectively subsidize the American bike manufacturers whose product is sold mostly through large no-service discount outlets?

It is not good for the bicycle industry in general, when considering all of the people employed in it, to allow and un-competitive sector of the industry be favored at the expense of those whose product is more competitive.

Your fair consideration of the real issues is needed to counter the first reaction to use government protection of inefficient producers.

Sincerely,

RICHARD J. CURREY,
Manager, Bicycle Products.

TEN SPEED DRIVE IMPORTS, INC.,
Indian Harbour Beach, FL, June 20, 1985.

DAN ROSTENKOWSKI,
Rayburn House Office Building,
Washington, DC.

DEAR MR. ROSTENKOWSKI: We are adamantly opposed to House Bill #2226 which would impose a broad base increase of custom duty for all bicycles and bicycle parts. This type of bill will do nothing except increase the price of bicycles to the consumer and put the bicycle industry in a tailspin.

Ten Speed Drive Imports is an importer-distributor of Italian professional quality bicycling equipment. We employ 15 people in Brevard County, Florida and 11 people in Santa Barbara County, California. This bill will do nothing but jeopardize everyone's job.

Sincerely,

THOMAS A. EASON, Jr., *President.*

TREK BICYCLE CORP.,
Waterloo, WI, June 24, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

HON. SAM M. GIBBONS: On behalf of Trek Bicycle Corporation, I am writing to offer my comments on the bill currently before congress, H.R. 2226, which seeks to amend the Tariff Schedules of the United States to provide for rates of duty on imported bicycles and bicycle parts consistent with those rates of duty maintained by the principal exporting nations of bicycles and bicycle parts to the United States, and for other purposes.

As Executive Vice President and co-founder of Trek Bicycle Corporation, one of the few remaining U.S. manufacturers of bicycles, I believe my observations may be of some relevance to the committee.

Trek Bicycle Corporation was formed in 1976 to manufacture the highest quality lightweight sport bicycles. Since that time, our work force has expended to more than 200 employees, and we have been quite successful in capturing a niche in the

market for high-quality adult bicycles selling for over $250 in the U.S.A. Trek sales in 1984 exceeded $20 million.

The market for quality lightweight adult bicycles is a demanding one, placing a premium on high performance specifications, close tolerances, and a maximum in weight savings.

Unfortunately, most of the precision alloy component parts required for the manufacture and final assembly of a bicycle must be sourced abroad, as they are simply not made domestically.

To cite some examples, the following precision alloy parts are not manufactured domestically in sufficient quantity, diversity, or quality to meet the requirements of a U.S. domestic manufacturer producing a quality lightweight adult bicycle:

A. Forged Aluminum Alloy.—Headsets, cranksets, derailleurs, pedals, handlebars, handlebar stems, sealed bearing hubs, and toe clips.

B. Other.—Freewheels, tubular tires, and narrow width derailleur chain.

Trek's credo, which it has widely advertised, expresses pride in it's "American craftmanship in bicycles and framesets". This craftsmanship pertains to the design and manufacture of the bicycle frame and final assembly of a complete bicycle since, of necessity, more than 75 percent of the parts used on Trek bicycles are imported.

Trek currently must pay import duties on these imported parts at rates that vary from "duty free" for exempt parts (i.e., those covered by a temporary duty suspension) to as much as 11.7 percent for others. The average, across-the-board duty we pay on the range of parts necessary to build a complete bicycle is in excess of 8.5 percent overall. Without the temporary duty suspension on certain items, it is in excess of 9.5 percent overall.

These duty rates paid by Trek are significantly higher than the 5.5 percent rate of duty levied on imported adult bicycles, which constitute the bulk of Trek's competition.

Trek is not an advocate of tariff barriers designed to subsidize or excuse inefficient domestic producers. Protectionism will only hurt the U.S. consumer.

However, the issue is one of fairness: Domestic producers can only compete effectively with imported bicycles if:

(a) The rate of duty on imported bicycle parts that compete with ones produced domestically is no higher than that applicable to imported complete bicycles.

(b) The duty on imported bicycle parts is not applicable to those imported parts that are not produced domestically.

(c) Foreign markets are as open to U.S. bicycle producers as the U.S. market is open to our foreign competition.

It is evident that H.R. 2226 directly addresses this issue of fairness which is our primary concern at Trek. Namely: the rate of duty proposed will apply to *equally* to imported bicycle parts and imported complete bicycles, and that this rate is consistent with that imposed by those nations which are the principal exporters of bicycles to the U.S.A.

It is assumed by Trek that duties on those parts that are not produced domestically will continue to be suspended by a separate bill.

Trek, therefore, supports H.R. 2226 and advocates its passage.

Respectfully yours,

BEVIL J. HOGG,
Executive Vice President.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

1. This statement is made on behalf of Trek Bicycle Corporation, a U.S. manufacturer of high quality lightweight sport bicycles.

2. Trek Bicycle Corporation believes that domestic producers of bicycles can compete effectively with their foreign competition provided that:

(A) The rate of duty on imported bicycle parts that compete with ones produced domestically is no higher than that applicable to imported complete bicycles.

(B) The duty on imported bicycle parts is not applicable to those imported parts that are not produced domestically.

(C) Foreign markets are as open to U.S. bicycle producers as the U.S. market is open to our foreign competition.

3. Trek Bicycle Corporation supports H.R. 2226 and advocates its passage.

VELOSPORT IMPORTS,
Durham, NC, June 18, 1985.

DAN ROSTENKOWSKI,
Rayburn House Office Building,
Washington, DC.

DEAR MR. DAN ROSTENKOWSKI: An inflationary protectionist bill, H.R. 2226 has been introduced in the House and is up for consideration by the House sub-Committee on Trade. This bill would raise the duty on imported bicycles and parts from 5.5 percent to 19 percent. This would have an extremely deleterious impact on the competitiveness of our business and of independent bicycle stores across the country. By favoring domestic suppliers like Huffy and Murray and their mass merchant customers like Sears, K-Mart, Montgomery Wards, etc, the Congress would be supporting the overwhelming sales advantage 76–24 percent these outlets already possess.

We urge your negative vote on this inflationary protectionist bill.

Sincerely,

JOHN C. N. CHAPIN, *President.*

VESPA OF AMERICA CORP.,
San Francisco, CA, June 3, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

DEAR MR. DOWLEY: My name is Guido Foggini, resident at 953 Pizarro Lane, Foster City, Ca. 94404 (telephone 415–570–5943), a U.S. citizen, and I am writing in my capacity as President of Vespa of America Corporation, a Company engaged in the importation into the U.S., for subsequent distribution, of BIANCHI bicycles, bicycle parts, accessories and related products, presently operating at 385 Oyster Point Boulevard—Unit #6—South San Francisco, CA. 94080 (telephone 415–872–1414).

This letter, besides representing the feelings and opinions of the writer, is written also on behalf of all the people presently employed by, or representing the Company I am President of, who earn their living, for themselves and their families, thru the above described activity of said Company.

Also, by broader implication, this letter is written on behalf of the approximately 600 Bianchi dealers in the U.S., also on behalf of another group of dealers (approx. 300) who regularly do business with our Company be selling at retail the bicycle parts, accessories and related products imported and distributed by us; these two groups of people, by far larger than our group of employees and representatives, also earn a good portion of their living, for themselves and their families, thru the activity of our Company.

The purpose of this letter is to signify strong opposition to the proposed Bill H.R. 2226, for the following reasons:

1. It is a protectionist Bill. Now, the very last thing this country—the flagbearer of Free Trade since the time of the Founding Fathers—needs, is protectionism.

Protectionism is ugly. It serves the interests of very few, it lulls these very few into a sense of false security thus retarding inventiveness, ingenuity and, worst still, quality control and price restraint. In a nutshell, protectionism kills competition and the ultimate victim is the consumer, the citizens, the people.

Protectionism is also dangerous. It may generate retaliation by other countries who, by returning in kind of the U.S. the same favor in some other industry (or by further exacerbating some of their own already existing protectionist posture), will create some barrier to the free export of U.S. product. This generally translates in losses of some "other" jobs in this Country, and the citizens, the people are again the victims.

2. If passed, Bill H.R. 2226 would strike a segment of the market that is of no interest to the mass merchandisers (who made record profits last year and who, in the bicycle business, are substantially "low quality and no service" oriented); it would penalize instead that segment of the market where more than 7,000 independent bicycle dealers are striving in a comparatively low profit activity, yet operating under "high quality and full service" standards.

Bill H.R. 2226 would be unfair to them and to their families, and seriously affect their livelyhood.

3. If passed, Bill H.R. 2226 would penalize that particular type of bicycle buyer (there is more than one million of them, each year) who has the right to freely choose for him/herself a higher standard of quality at a reasonable price, and who

will not find it any longer because: (a) the imported product would be unreasonably expensive, and (b) there is presently no equivalent available in the domestic market.

4. It is easy to see that, with no availability of certain products from domestic sources, some buyers would still buy the imported product at an higher price (Inflationary effect).

Yet, the demand would shrink, with no advantage to the groups that the proposed Bill H.R. 2226 is designed to protect, and with serious jeopardy for the multitude of people who are presently involved in the high quality bicycle business in the U.S., a multitude that indeed includes all the people associated directly or indirectly with our Company, and our Company itself.

In view of the above, I urge you to represent to the Committee on Ways and Means my strong opposition to the spirit as well as the verbiage of the proposed Bill H.R. 2226.

Respectfully yours,

GUIDO FOGGINI, *President.*

VESPA OF AMERICA CORP.,
San Francisco, CA, June 17, 1985.

DEAR CONGRESSMAN DAN ROSTENKOWSKI: I am writing in response to the proposed legislation to increase the duty on bicycles and bicycle components to 19%.

I am against any support of bill H.R. 2226.

This proposed bill discriminates against the some 7,000 independent bicycles dealers, who employ approximately 30,000 people in the U.S. It is also important to understand that the imported bicycles sold through these independent dealers are primarily sold to enthusiasts and are not available from domestic manufacturers. Needless to say, an increased duty passes along unreasonable costs to the consumer, who might then seek to spend his recreational dollars in another industry.

Again, I vehemently oppose H.R. 2226.

Sincerely,

DIANE P. SHEARDOWN,
National Sales Manager.

STATEMENT OF CARLTON P. PAWSAT, PRESIDENT, WALD MANUFACTURING CO., INC.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

1. Both the bicycle and the bicycle parts industries have suffered severe import penetration, primarily from Japan, Taiwan and Korea.
2. The efforts of the parts industry to date, including duty suspension for designated bicycle parts, have not been effective in combating imports.
3. Without relief, the bicycle and parts industries are doomed.
4. Any relief must meet the needs of both industries, as they are mutually interdependent.
5. H.R. 2226 treats bicycles and parts equally as it seeks relief for the two industries.
6. Wald therefore supports H.R. 2226.

INTRODUCTION

Wald Manufacturing Company, Inc. has manufactured bicycle parts since 1905. Other than our war materials productions efforts in World War II, bicycle parts have always been our product line. (The index of our current catalog of parts produced by Wald is attached as an Exhibit to this testimony.) Since 1924, we have been located in Maysville, Kentucky.

We are a small busniess in a rural community. Our operations, equipment and plant facilities are modern. Because our only business is bicycle parts, our company's survival and our employees' jobs are solely dependent on the survival of the domestic bicycle parts industry.

IMPORT PENETRATION OF THE U.S. BICYCLE AND THE BICYCLE PARTS MARKETS IS SEVERE

Both the bicycle and the bicycle parts industries have experienced severe import penetration of their U.S. markets, primarily by products from Japan, Taiwan and Korea. By 1984, 42 percent of the bicycles (units) sold in this country were imported and 75 percent of the bicycle parts (by dollar volume) sold in this country were im-

ported. While the parts industry has been aggressive in responding to this threat through instituting and tightening quality control programs, accomodating delivery schedules to manufacturers' needs, holding prices level or reducing prices, modernizing plant, reducing payroll and general belt-tightening, our market share has declined to the break-point and we fear that further losses would result in our destruction. The bicycle industry is also suffering extreme market penetration. Because we recognize that their plight is our plight, since 1971 we parts manufacturers have consistently supported consecutive duty suspension bills suspending the duty on designated imported parts (generally, those parts for which no U.S. manufacturer exists). H.R. 2350, which is also before this Committee and which Wald also supports, would bring the dollar volume of such duty free imported parts to approximately 50 percent of all parts imported.

Still our market share, and that of our customers the bicycle manufacturers, continues to decline. It is evident that some relief is vitally needed or our industries will not survive.

RELIEF SHOULD BE GEARED TOWARD BOTH THE PARTS AND THE BICYCLE INDUSTERIES, AS THEY ARE MUTUALLY INTERDEPENDENT

At the request of the bicycle industry, Congressman Boner has introduced H.R. 2226, which would increase the tariff on bicycles (which for the majority of bicycles today is 5.5 percent) and on parts (which today averages 11 percent) to 19 percent. A tariff increase of this magnitude seems to be a large step to ask Congress to take. Yet, is it really so large when compared to the duty rates imposed by the principal exporting nations, or when non-tariff barriers are considered? Scme examples of duties are Taiwan (35 percent on bicycles, 20 percent on parts, plus an uplift tax of 10 percent added to the value of these articles before duty is assessed) and Korea (40 percent ad valorem on bicycles, 30 percent on frames and other parts, plus a 10 percent value added tax).

CONCLUSION

Import relief is vitally needed by the bicycle and the bicycle parts industries. H.R. 2226 would provide that relief and recognizes that, to be effective, any such relief must address the problems of both the bicycle and the bicycle parts industries. Wald therefore supports H.R. 2226.

WEST COAST CYCLE,
Culver City, CA, June 12,1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: As a supplier to the U.S. independent bicycle dealer network, I am writing to you regrading H.R. 2226, a Bill to amend the U.S. Tariff Schedule duty rates on imported bicycles and bicycle parts. This is the same Bill (H.R. 5754) that was introducted a year ago on behalf of the Bicycle Manufacturers Association (BMA) and successfully defeated. This Bill was recently reintroduced by Representative Boner of the 5th Tennessee Congressional District on behalf of the same parties. In my opinion, H.R. 2226 threatens the livelihood of 8,000–10,000 people in small businesses (independent bicycle dealers and distributors) throughout the entire United States.

H.R. 2226 essentially asks for an increase in import duties on bicycles and bicycle parts to 19 percent (the import duty on bicycles presently is 5.5 percent). This duty increase would force imported bicycle prices up 33–40 percent at the consumer level and drive consumers from the 6,000 small, "Mon and Pop" independent bicycle dealers to huge, mass merchandisers such as K-Mark, Toys-R-Us, Sears, etc . . . mass merchandisers who do not offer advice, service, or general repair facilities to their customers.

The BMA is controlled by two gaint companies, Huffy and Murray. Between them, they currently have a huge 65–70 percent of the total market! They have U.S. production plants and are, understandably, attempting to protect the jobs of their workers. However, latest financial results for these two companies indicated they are quite healthy. As a note, mass merchandisers, the major portion of Huffy and Murry's customers, appear to have determined they would prefer featuring and selling items such as computers, clothing, white goods and other items versus bicycles. Murray and Huffy appear to believe the best way for them to recapture the "inter-

est" of the mass merchandisers is to penalize and decimate the 8,000–10,000 people in the independent bicycle field.

The independent bicycle retailer is a small neighborhood shop run by local residents who stress service, repairs, choice of models and colors. They are an "offset" to the mass merchandisers who sell only high demand, heavily advertised products such as those from Murray and Huffy. It is difficult enough now for them to compete with the aforementioned gaints, much less if import duties were increased nearly four fold.

Statistics given to Representative Boner by Huffy and Murray are selective and unrepresentative. These statistics indicate bicycle imports have increased as a percent of total market share. However, they do not indicate facts such as domestic shipments which were up 20 percent. Also, in 1982 total bicycle consumption decreased almost 25 percent versus 1981 . . . with imports off 26 percent versus a 24 percent decline in domestic shipments.

In late 1982, BMA brought an anti-dumping action against Korean and Taiwanese bikes. The International Trade Commission (ITC) found the U.S. bicycle industry had not been materially injured or threatened by such imports. Also, in 1983 Huffy acquired the Raleigh brand of bicycles and began importing larger quantities of Taiwanese bikes . . . thereby (themselves) considerably increasing the number and percentage of bikes imported from Taiwan.

Bicycle parts make up a growing portion of after market, service and sales for the independent bicycle dealer and, importantly, are not available from domestic manufacturers. The parts area is particularly necessary for the independent bicycle dealer as consumers have no other avenue for bicycle repair because mass merchandisers, department stores, syndicate stores, etc., have chosen not to provide in-depth consumer service for the products they sell.

In a nutshell, the independent bicycle dealer cannot and does not threaten the mass merchandising, department store and syndicate store giants which dominate (70 percent) the bicycle industry.

It is my earnest hope that by providing you and the Subcommittee members the information contained in this letter, you will recognize an entire small business segment, the independent bicycle retailer, is being threatened by a predatory group (BMA) of the few manufacturers who already control 70 percent of the bicycle retail business in the United States. It is my contention that this monopoly should not be aided and abetted by our Congress; nor should American concumers be asked to pay a price of 40 percent more for the same item they now choose to purchase from their local, independent retailer.

I appreciate your consideration of this information and ask you and the Subcommittee to vote against considering the legislation contained in H.R. 2226.

Very truly yours,

SIDNEY DUNOFSKY, *President.*

WESTLAND SCHWINN CYCLERY, INC.,
Columbus, OH, June 25, 1985.

Hon. CHALMERS P. WYLIE,
Rayburn Office Building,
Washington, DC.

DEAR CONGRESSMAN WYLIE: We are writing to voice our opposition and to solicit your support in voting against House Bill H.R. 2226 introduced in Congress by William Boner, 5th Tennessee Congressional District, on April 25, 1985.

As small businessmen it is our determination that H.R. 2226 is a dangerous piece of anti-bike legislation. This bill, if it becomes law, will hurt all of us in the bicycle trade. Our survival is based on the sale of quality, guaranteed products, customs fitted to our customer's requirements. We service our customers long after the sale. We are specialists who derive 100% of our revenue from bicycles. To raise tariffs on all imported bicycles and components to 19% across the board will, for all intents and purposes, put all of the small businesses in the Bicycle Industry out of business. By doing this the BMA (Bicycle Manufacturers Assn. composed of Huffy, Murray & AMF) will have established a cartel eliminating all competition.

The BMA in 1983 brought a major anti-dumping case against Taiwan and Korea to the International Trade Commission and was rejected on every claim. In 1984 H.R. 5754 was round #2 in their effort to capture the market and eliminate competition. Now round #3 with the introduction of H.R. 2226. The small businessman struggles to give America a fair chance in competition yet has to constantly battle to stay in business.

Hundreds of thousands of jobs all over the USA will be lost if this bad piece of legislation is passed. Many of these jobs will be in your Congressional District.

BMA would have you believe they are suffering serious injuries account of imports. The truth is that in 1984 fiscal year, all time record high profits have been recorded by both Huffy and Murray. Why do they want to put the Independent Bicycle Dealers out of business?

Once again we respectively and strongly urge your active opposition to H.R. 2226.

Sincerely,

WILLIAM T. BARRETT,
ARTHUR J. BARRETT,
Owners and operators.

H.R. 2228

To extend for 3 years the existing suspension of duty on sulfapyridine

See statement of Salsbury Laboratories, Inc., Clarus M. Galloway, under H.R. 1734.

U.S. International Trade Commission

Section-by-section analysis

H.R. 2228,[1] if enacted, would amend item 907.17 [2] of the Appendix to the Tariff Schedules of the United States (TSUS) to extend the existing suspension of the column 1 [3] duty rate for TSUS item 411.27 for three additional years. This would be accomplished by striking "12/31/85" and inserting "12/31/88" in lieu thereof. Section 2 of the bill states that this amendment would be effective for entries made after December 31, 1985.

Background

Description and uses.—Sulfapyridine, a synthetic derivative of sulfanilamide, is produced from 2-aminopyridine and acetosulfonyl chloride. It is classified in a group of chemicals known as anti-infective sulfonamides. The chemical occurs as white or faintly yellowish-white crystals, granules, or powder. It has a melting point of 191–193° C and is slightly soluble in water and alcohol and freely soluble in dilute mineral acids and aqueous solutions of potassium hydroxide and sodium hydroxide. Sulfapyridine is stored in well-closed, light-resistant containers, since the chemical slowly darkens on exposure to air. Toxicity data indicates a lethal dose in mice of greater than 15 grams per kilogram body weight.

At one time sulfonamides were widely used in the treatment of infections. However, the development of resistance in formerly susceptible organisms has greatly limited the clinical usefulness of these drugs. In addition, substantial quantities have been used as growth promoters in animal feeds. However, the use of sulfapyridine has been limited due to its toxicity. Unlike the other sulfonamides, it is not used as an antibacterial agent and is limited to the treatment of dermatitis herpetiformis, with recommendations that use in this capacity be limited to cases in which sulfones are not tolerated or contraindicated. Use of sulfapyridine in animal feed, as approved by the FDA, accounts for about 15 to 30 percent of annual consumption. The remainder of annual consumption is used in the production of other sulfa drugs, particularly salicylazosulfapyridine (sulfasalazine) and sulfadiazine.

Purpose.—The proposed legislation would extend the existing suspension of duty on sulfapyridine for an additional three years. Presently, sulfapyridine is not produced in the United States.

There are four major importers and/or purchasers of sulfapyridine. Two major importers, as well as other firms that import the chemical sporadically, favor passage of this legislation. The two primary reasons given in favor of passage are the lack of domestic producers of sulfapyridine and the fact that the competitiveness of the domestic producer of sulfaslazine has increased with respect to imports of that

---

[1] A companion bill, S. 1015, 99th Congress, is currently pending in the Senate Finance Committee.

[2] Temporary TSUS item 907.17 was established January 12, 1983 to provide duty-free treatment for sulfapyridine, provided for in item 411.27, part 1C, schedule 4 (Public Law 97–446, Sec. 135).

[3] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preference (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

product during the period in which the duty on sulfapyridine has been suspended. The remaining two major importers and/or purchasers declined to comment on the proposed legislation.[4]

Comparison with present law

Tariff treatment under the TSUS.—Sulfapyridine is classified in TSUS item 411.27. The current column 1 duty rate is 16 percent ad valorem. The rate for the least developing countries (LDDCs)[5] is 11.6 percent ad valorem. the column 2[6] duty rate is 7 cents per pound plus 128.5 percent ad valorem.

Imports under item 411.27 are not eligible for duty-free treatment under the Generalized System of Preferences (GSP).[7] Articles produced in beneficiary Caribbean countries may be eligible for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).[8]

Sulfapyridine was classified under TSUS number 407.72 prior to the Tokyo round of Multilateral Trade Negotiations (MTN). Effective July 1, 1980 item 411.28 was established, and in April 1983 the item number was changed to 411.27. The following staged duty rate reductions were negotiated in the Tokyo round for item 411.28 and then applied to item 411.27:

Year	Column 1 rate of duty effective on or after January 1—
Pre-MTN [1]	1.4¢ per lb. + 28.5% ad val
1980 [2]	26.8% ad val
1981	24.7% ad val
1982	22.5% ad val
1983	20.3% ad val
1984	18.1% ad val
1985	16% ad val
1986	13.8% ad val
1987	11.6% ad val

[1] Rate applicable to item 407.72 prior to July 1, 1980.
[2] Rate effective on or after July 1, 1980.

Tariff treatment under the proposed Harmonized System.[9]—The Harmonized System (HS) commodity code number for sulfapyridine is 2935.00.35.[10] The column 1 duty rate that will be effective upon implementation of the HS is 11.6 percent ad valorem.

---

[4] Telephone conversations with sponsor's staff and importers.

[5] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[6] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[7] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[8] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[9] The Harmonized System is intended to serve as the single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

[10] Source: Trade Policy Staff Committee, Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System (September 1984).

Structure of the domestic industry

Sulfapyridine is not presently produced in the United States. American Cyanamid Co. and Napp Chemicals Inc. produced sulfapyridine until 1980–81. Industry sources maintain that sulfapyridine cannot be substituted in the production of certain sulfa drugs, particularly sulfasalazine.

Domestic production

Commercial scale production of sulfapyridine in the United States was terminated during 1980–81.

U.S. imports

Salsbury Laboratories, Rhone-Poulenc Inc., and Flavine International Co. obtain sulfapyridine from Italy and England. During 1980–1982 the Commission's staff identified imports of sulfapyridine ranging from about 106,000 pounds to about 70,000 pounds.[11] According to industry sources, in 1983, the first year of the suspension of duty on sulfapyridine, imports amounted to about 120,000 pounds. Imports increased to about 145,000 pounds in 1984. The current market price for sulfapyridine is approximately $11.40 to $12.30 per pound.

U.S. exports

Export data are unavailable because sulfapyridine is classified in a residual (basket) Schedule B number.

Apparent U.S. consumption

According to industry sources, annual U.S. consumption of sulfapyridine amounts to about 120,000 to 160,000 pounds.

Effects on revenue

Based on Commission data and industry sources, the following are estimated revenue losses for the three-year period from 1986 through 1988, which are expected to result if this legislation is enacted:

Estimated revenue loss

[In thousands of dollars]

Year:	
1986	247
1987	216
1988	224

DEPARTMENT OF COMMERCE

This letter is in response to your request for the views of this Department on H.R. 2228, a bill "To extend for 3 years the existing suspension of duty on sulfapyridine."

The Department has no objection to the enactment of H.R. 2228, which would extend the column 1 (MFN) duty suspension on this medicinal chemical product to December 31, 1988. The column 2 (statutory) rate of duty would be unaffected by this legislation.

This chemical presently enters the United States, free of duty, under Tariff Schedules of the United States (TSUS) item 907.17. In the absence of the duty suspension, sulfapyridine would be imported under TSUS item 411.27. The current duty of 16 percent ad valorem on TSUS 411.27 will be reduced in stages to 11.6 percent ad valorem on January 1, 1987, as a result of concessions made in the Tokyo Round of trade negotiations. Sulfapyridine is not eligible for duty-free treatment under the U.S. Generalized System of Preferences.

Enactment of H.R. 2228 will not have an adverse effect on domestic industries. This chemical is not produced in the United States. It is used by one U.S. company as an intermediate to produce a pharmaceutical for treating acute inflammation of the lower intestine. Sulfapyridine is also used, in a minor degree, to formulate tablets for the treatment of a type of dermatitis.

The duty on sulfapyridine had previously been suspended until December 31, 1985, a suspension which resulted not only in maintaining eight jobs at the laboratory proposing this extension, but also in increased sales which produced Federal tax

---

[11] USITC, Imports of Benzenoid Chemicals and Products, Annual Reports for 1980, 1981, and 1982.

revenue much in excess of the loss in tariff caused during the first two and one half years of the initial suspension.

We estimate that revenue loss from continuation of duty-free treatment for sulfapyridine would be about $160,000 based on an approxiamte import volume of 55,600 kg in 1985. Enactment of this legislation would have no effect on the revenues or administrative costs of the Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to Congress from the standpoint of the Administration's program.

H.R. 2238

To extend for 5 years the existing suspension of duty on stuffed dolls, certain toy figures, and the skins thereof

H.R. 2335

To suspend temporarily the duty on certain stuffed toy figures until December 31, 1990

U.S. International Trade Commission

H.R. 2238

Section-by-section analysis

The proposed legislation would extend to December 31, 1990 the temporary duty suspension afforded under items 912.30, 912.34, and 912.36 of the Appendix to the Tariff Schedules of the United States (TSUS) to imports of stuffed dolls with or without clothing (TSUS item 737.23), skins for stuffed dolls (TSUS item 737.26), stuffed or filled toy figures of inanimate objects (TSUS item 737.47), and skins for toy figures (TSUS item 737.51). The suspension of the column 1 duty rates [1] for these articles is currently scheduled to expire on December 31, 1985.

Background

Description and uses.—Stuffed dolls are representations of human beings and have a textile exterior filled with a stuffing material, such as shredded textile fabric. These dolls, generally known as rag dolls in the toy trade, are either one-piece entirely stuffed dolls or dolls having a stuffed body with a hard head and extremities, usually of plastic. The clothing may be an integral part of the skin (permanently attached to or forming part of the exterior) or may be removable as is the case for nonstuffed dolls.

Stuffed doll production is highly labor intensive; pieces must be hand-cut and sewn to produce the doll skin. The skin is sewn inside out, leaving a small opening which allows the skin to be reversed and the filler material inserted. Prior to stuffing, eyes and other features may be added if not already part of the skin, so that once stuffed and closed the doll is essentially complete. For stuffed dolls having hard extremities, the extremities are added after the torso is stuffed, again essentially finishing the doll. The variety of patterns and styles necessary to produce a full line of stuffed dolls prevents the economic automation of most of the production process.

Although dolls, as a product group, consist of both play or toy dolls for children's use and dolls for collection or decoration, most stuffed dolls are intended for use as children's toys. Stuffed dolls are generally sold for preschool-age children, particularly infants, while other toy dolls are usually intended for older children. For this reason, stuffed dolls, as a product group, are more similar to stuffed toys than to other dolls; the production processes for the stuffed articles are nearly identical and the two are often marketed together. However, stuffed dolls are at least partially distinct as a category, maintaining the softness and flexibility of a stuffed creature while retaining their identity as dolls.

Stuffed or filled toy figures of inanimate objects either have predominantly nonhuman or nonearthlike features or are hybrids of more than one earthly creature.

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

Stuffed or filled toy animals (earthly creatures) are excluded from this category. Stuffed or filled toy figures of inanimate objects can range from small inexpensive curiosities to larger-than-life-size creatures and characters costing many hundreds of dollars. These toys have either a smooth cloth exterior or are plush—a trade term referring to a soft and pliable stuffed toy with a furry or velvet exterior, often intended to simulate the coat on an animal. The toy is considered "stuffed" for customs purposes if the torso is crammed full of a "traditional" stuffing material (especially of textiles). It is "filled" if the torso is not crammed full with the filler material or the material is of a type that cannot be used to force the skin to full distension (such as crushed nut shells or plastic beads). It should be noted, however, that the toy trade would generally consider all of these toys to be "stuffed". The production of stuffed or filled toy figures of inanimate objects is nearly identical to that described for stuffed dolls, but these toys do not usually require clothing.

As with stuffed dolls, the uses of these toys may be as children's toys, as collectibles or decorations, or as novelty gifts. However, although the stuffed toys are used primarily by preschool-age children and infants, the so-called filled toys are usually smaller and not fully washable, so they would not normally be used by young children.

As with stuffed dolls, there is little domestic production of stuffed or filled toy figures of inanimate objects. Had these toys become popular a decade ago, a residual domestic industry might have produced them profitably in the larger size ranges [as is the case with stuffed animals], despite migration of other production to lower-wage countries. however, since inanimate figures have become popular only within the last several years, and remain concentratred in the smaller and medium size ranges, they have been sourced almost exclusively from abroad.

Doll and toy skins are the outer covering of a doll or toy or the unstuffed torso (basically the unstuffed doll or toy). In addition, a doll or toy having the arms, legs, or any incidental appendages filled or stuffed and the main portion of the body (the torso) unfilled would be considered a skin for Customs purposes. In either event, the skin is designed to be flexible and cannot hold the shape of the doll or toy unless it is stuffed or filled. The production of skins is highly labor intensive, requiring hand cutting and sewing. There is no known commercial production in this country of doll skins, negligible production of skins for toy figures of inanimate objects, and only minor production of skins for toy figures of animate objects (which is concentrated in skins for the largest toys).

Purposes.—The temporary suspension of the duty on imports of stuffed dolls, toy figures of inanimate objects, and doll and toy skins was originally proposed and enacted in 1982, and went into effect on January 27, 1983. Industry sources maintain that the production of these products is so highly labor intensive that the U.S. toy industry had resorted to sourcing almost exclusively from foreign production facilities.[2] Thus, any duty is arguably an unnecessary addition to the final cost to the consumer. In addition, these sources assert that the duty suspension on imports of skins would encourage importers and manufacturers to finish the dolls and toys in the United States.

Comparison with present law

Tariff treatment under the TSUS.—The subject articles are currently dutiable under the provisions of the TSUS shown in the table on the following page.[3] A table giving the rates imposed prior to the Tokyo round of the Multilateral Trade Negotiations (MTN) and the staged reductions in those rates is attached to the report. The table also indicates the eligibility of the articles for duty-free entry under the Gen-

---

[2] No statement regarding the present bill appeared in the Congressional Record. Information presented here was obtained from industry sources.

[3] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

eralized System of Preferences (GSP) [4] and the Caribbean Basin Economic Recovery Act (CBERA).[5]

STUFFED DOLLS AND DOLL SKINS, CERTAIN TOY FIGURES OF INANIMATE OBJECTS, AND TOY SKINS: CURRENT TARIFF TREATMENT, BY TSUS ITEM

TSUS item No.	Description	Col. 1	LDDC	Col. 2	GSP treatment	CBERA treatment
	Dolls, and parts of dolls including doll clothing:					
(737.21	Doll clothing imported separately.)					
	Other:					
	Dolls (with or without clothing):					
737.23	Stuffed	13.4% ad val.	12% ad val	70% ad val	Yes, except Hong Kong and Taiwan.	Yes.
	Parts of dolls:					
737.26	Doll skins for stuffed dolls	13.4% ad val.	12% ad val	70% ad val	Yes	Yes.
	Toy figures of inanimate objects, not having a spring mechanism:					
737.47	Stuffed or filled	9.6% ad val	7% ad val	70% ad val	Yes, except Republic of Korea.	Yes.
737.51	Skins for toy figures of animate or inanimate objects.	9.6% ad val	7% ad val	70% ad val	Yes, except Republic of Korea.	[1] Yes.

[1] Subject to restrictions of TSUS general headnote 3(g)(iii).

For the purpose of tariff classification, the term "inanimate" includes only creatures or nonhumanoid figures (other than dolls) that are predominantly nonearthly in nature or creatures that are hybrids of two or more earthly creatures. Toy animals, robots, machines, and vegetable or mineral objects vested with animate features are excluded. To be considered "stuffed" for Customs purposes, the skin of the toy must be "crammed full" "or filled to full distension" with the stuffing material. Only traditional stuffing materials, such as shredded textile materials, are allowed. Materials such as bean-bag type fillers or crushed nutshells, which do not fill the skin to full distension, are excluded. In determining whether a toy is stuffed or not, only the torso is judged; extremities need not be stuffed or stuffable.

The following tabulation shows the TSUS Appendix items under which the products are afforded the temporary column 1 duty suspension:

Temporary TSUS item	Description
912.30	Stuffed dolls (with or without clothing) and doll skins for stuffed dolls (provided for respectively in items 737.23 and 737.26, part 5E, schedule 7).
912.34	Stuffed or filled toy figures of inanimate objects not having a spring mechanism (provided for in item 737.47, part 5E, schedule 7).

[4] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[5] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

Temporary TSUS item	Description
912.36	Skins for stuffed toy figures of animate and inanimate objects (provided for in item 737.51, part 5E, schedule 7).

Tariff treatment under the proposed Harmonized System.—According to the September 1984 draft converted tariff schedule published by the Trade Policy Staff Committee, the tabulation on the following page shows the Harmonized System (HS) headings and proposed column 1 rates of duty applicable to the subject products. It should be noted that provision for a temporary duty suspension would be effected in provisions in chapter 99 of the schedule.

Subheading 9502.10.00 would cover stuffed dolls and skins for stuffed dolls. The stuffed toys and toy skins currently classified under TSUS items 737.47 and 737.51 would be classified under HS subheading 9503.41.00. The filled toys and skins therefor currently classified under TSUS items 737.47 and 737.51 would be classified under HS subheading 9503.49.00.

HS subheading	Stat suffix	Description	Col. 1 general rate of duty	Corresponding TSUS item No.
		Dolls representing only human beings, and parts and accessories thereof:		
9502.10.00		Dolls, whether or not dressed	12% ad val.	
	20	Stuffed		737.23
		Parts and accessories (garments and accessories therefor, footwear and headgear):		
9502.99.00		Other	12% ad val.	
	40	Skins for stuffed dolls	737.26	
		Other toys; . . . accessories thereof:		
		Toys representing animals or non-human creatures (for example, robots and monsters) and parts and accessories thereof:		
9503.41.00		Stuffed toys and parts and accessories thereof	6.8% ad val.	
	20	Stuffed toys	737.47	
	40	Parts and accessories	737.51	
9503.49.00		Other	6.8% ad val.	
		Toys not having a spring mechanism (of metal):		
	20	Other (toys having a spring mechanism)		737.47
	50	Parts and accessories		737.51

Structure of the domestic industry

Specific information concerning the domestic industry producing only the subject products is not available. However, there were approximately 200 U.S. firms producing all dolls and stuffed toys in 1984. Employment in the doll and stuffed toy industry, which prior to 1982 had been declining, had recovered somewhat in 1984 to about 7,800 employees, including about 6,600 production and related workers. The industry is concentrated in New York, New Jersey, New England, and California.

The twenty largest firms account for the bulk of domestic doll and stuffed toy production and, although there are small firms devoted solely to the sale of dolls and stuffed toys, nearly all the major producers also manufacture or market other toys, games, and children's vehicles. In addition, nearly all domestic producers, including all the major firms, import to some extent; their activities range from the importation of skins to significant investment in foreign production facilities for supplying both U.S. and foreign markets. There is no known U.S. production of skins for stuffed dolls, and very little production of any of the remaining products except skins for stuffed toy animals. Some U.S. manufacturers produce skins domestically for the largest stuffed toy animals or the very high priced smaller animals as part of their overall U.S. production of the completed animals. More often, however, the skins are imported. It is not uncommon for those producers importing parts of finished stuffed dolls and toy animals to export the production equipment, particularly cutting and sewing machines, to their overseas facilities.

The following firms produce stuffed dolls in the United States:

CBS Toys, Div. of CBS, Inc., Hollis, NY

Coleco Industries, Hartford, CT
Collette Toy & Novelty Co., Long Island City, NY
Cuddlewit, Inc., Moonachie, NJ
Eugene Doll & Novelty Co., Inc., Brooklyn, NY
Goldberg Doll Mfg. Co., Inc., Brooklyn, NY
K. B. Brothers, Inc., New York, NY
Perfecta Industries, Inc., Flushing, NY
Quality Import & Service, Jamaica, NY
Rennoc Corp., Vineland, NJ
Shalom Toy Co., Inc., New York, NY
Soft Things, Inc., Brooklyn, NY
Superior Toys & Novelty Corp., Kansas City, MO
Well Made Toy Corp., Long Island City, NY

Domestic production

The following tabulation shows the estimated value (in millions of dollars) of domestic producers' shipments, by type of product, for 1980–84. It should be noted that the estimates provided for stuffed dolls and the toy figures of inanimate objects include the value of imported parts.

Article	1980	1981	1982	1983	1984
Stuffed dolls	4.8	10.8	17.1	29.5	44.9
Stuffed or filled toy figures of inanimate objects	(1)	(1)	(1)	(2)	(2)
Doll skins	None				
Toy skins	Under 1 annually				

[1] Under 1 annually.
[2] 1 to 2 annually.

U.S. imports

The following tabulation shows the value of imports by product type for the period 1980–84, including the top three supplying countries in 1984, and imports from all GSP beneficiaries and CBERA beneficiaries in 1984. Imports from column 2 sources were insignificant for all product groups, amounting to 2 percent of the total value of imports in 1984.

It should be noted that the value of imports is not strictly comparable to the value of producers' shipments. Producers' shipments are reported on the basis of first billing value, while import values are customs values, roughly f.o.b. foreign port. All costs associated with importation, including freight, insurance, duties, warehousing, and importers' profit, have been estimated by the U.S. Department of Commerce to raise the import value for all toys by an average factor of 2.3.

[Quantity in million units; value in million dollars]

Type	1980	1981	1982	1983	1984	Top three supplying countries	Import share (by value) in 1984	Share of imports from: GSP beneficiaries (by value) in 1984 [1]	Share of imports from: CBERA beneficiaries [2] (by value)
Stuffed dolls:									
Quantity	10.9	13.3	20.0	26.2	79.6				
Value	13.1	18.3	26.2	56.6	216.2	Hong Kong	36%	78%	(3)
						Taiwan	32%		
						China	17%		
Stuffed and filled toy figures of inanimate objects:									
Quantity	(4)	(4)	(4)	2.2	7.5				
Value	(4)	(4)	(4)	3.5	18.0	Korea	76%	94%	6%
						China	9%		
						Haiti	6%		

[Quantity in million units; value in million dollars]

Type	1980	1981	1982	1983	1984	Top three supplying countries	Import share (by value) in 1984	Share of imports from: GSP beneficiaries (by value) in 1984 [1]	Share of imports from: CBERA beneficiaries [2] (by value)
Doll skins (value)	(4)	(4)	2.4	4.6	7.5	Taiwan	38%	83%	11%
						Hong Kong	30%		
						China	15%		
Toy skins (value)	(4)	(4)	(4)	21.3	37.3	Korea	77%	97%	10%
						Haiti	10%		
						Taiwan	6%		

[1] Includes all imports from all GSP beneficiaries, including these that were excluded under competitive need limitations.
[2] Includes imports from all CBERA beneficiaries.
[3] Less than 0.5 percent.
[4] Data omitted.

The following firms are major importers of the subject products:
Amtoy, Inc., New York, NY
Applause (Wallace Berrie & Co), Van Nuys, CA
Coleco Industries, Inc., Hartford, CT
R. Dakin & Co., San Francisco, CA
Eden Toys, New York, NY
Empire Pencil Co., Shelbyville, TN
Fisher Price Toys, East Aurora, NY
General Mills Products Corp., High Point, NC
Kamar, Inc., Torrance, CA
K-Mart Corp., Troy, MI
Lash Tamaron Distributors, Rochelle Park, NY
Mattel, Inc., Hawthorne, CA
Russ Berrie & Company, Inc., Oakland, NJ
Superior Toy & Novelty Corp., Kansas City, MO

It should be noted that all the firms listed as domestic producers also import skins.

U.S. exports

Detailed official statistics are not available for exports of those products; however, U.S. exports were negiligble during the period 1980–84.

Apparent U.S. consumption

The following tabulation shows estimated apparent U.S. consumption (in millions of dollars) for the products covered by the legislation, by type, for 1980–84:

Articles	1980	1981	1982	1983	1984
Stuffed dolls	17.9	29.1	43.3	86.1	261.1
Stuffed and "filled" toy figures of "inanimate objects"	Under 1 annually			3–4	8–10
Doll skins	(1)	(1)	2.4	4.6	7.5
Toy skins	(1)	(1)	(1)	(2)	(3)

[1] Not available.
[2] Not more than 22.3.
[3] Not more than 38.3.

Effect on revenue

Assuming that imports of stuffed dolls from Hong Kong and Taiwan and of toy figures of inanimate objects and toy skins from Korea remain ineligible for duty-free treatment under the GSP during 1986–90, the enactment of the legislation would result in an estimated loss of customs revenues of $15 million to $20 million annually.

Technical comments

A minor change in the article description of Appendix item 912.36 is recommended in order to eliminate confusion concerning its intended coverage. Item 912.36 was intended to include all skins classified under TSUS item 737.51. However, because

the description specifies only stuffed toys, some Customs officials have interpreted the item to exclude skins for filled toy figures of inanimate objects. Because in many cases a skin for a filled toy is identical to a skin for a stuffed toy, tariff classification becomes difficult and consistent duty application is impossible.

Therefore, it is recommended that the word "stuffed" be deleted from the current article description in item 912.36, so that it will read as follows: "Skins for toy figures of animate or inanimate objects (provided for in item 737.51, part 5E, schedule 7)."

In addition, in the bill as drafted, the language "after December 31, 1985" should probably be replaced with "on or after January 1, 1986" to avoid confusion. However, it should be noted that, if the extension is enacted after that date, it may be difficult for the Customs Service to locate all eligible entry documents; no entries liquidated on or after January 1 could be reliquidated unless language to that effect is added.

STUFFED DOLLS, STUFFED AND FILLED TOY FIGURES OF INANIMATE OBJECTS, DOL AND TOY SKINS: PRE-MTN RATE AND STAGED RATE MODIFICATIONS, BY TSUS ITEM, 1980–87

[Percent ad valorem]

TSUS item No.	Pre-MTN col. 1 rate of duty[1]	Rates of duty effective with respect to articles entered on and after Jan. 1 —							
		1980	1981	1982	1983	1984	1985	1986	1987
737.23	17.5	16.8	16.1	15.4	14.8	14.1	13.4	12.7	12
737.26	17.5	16.8	16.1	15.4	14.8	14.1	13.4	12.7	12
737.47	17.5	16.2	14.9	13.6	12.3	10.9	9.6	8.3	7
737.51	17.5	16.2	14.9	13.6	12.3	10.9	9.6	8.3	7

[1] Rate effective prior to Jan. 1, 1980

H.R. 2335

Section-by-section analysis

Section 1 of the legislation would temporarily suspend the column 1 rate of duty[6] applicable to imports of toy figures of animate objects, not having a spring mechanism and valued over 10 cents per inch of height, classified in item 737.30 of the Tariff Schedules of the United States (TSUS). A new item, 912.32, would be added to the Appendix to the TSUS to provide such duty treatment. In accordance with section 2, the duty suspension would be in effect during the period January 1, 1986 through December 31, 1990, inclusive.

Background

Description and uses.—These products are stuffed toy animals or figures having predominantly humanoid or animal-like features and are not commonly known as dolls. To be classifiable in TSUS item 737.30, their customs value must be over 10 cents per inch of height; the height is measured with the toy in its natural position. Stuffed toy figures of animate objects range from small inexpensive curiosities to larger-than-life-size animals and characters costing many hundreds of dollars. One category of stuffed animal is the low-quality, inexpensive animal of rather simple design, generally used as prizes in carnival games. However, the proposed legislation only covers those figures valued over 10 cents per inch of height, a category in which few carnival stuffed toys fall. The remaining stuffed toys either have a smooth cloth exterior or are plush—a trade term referring to a soft and pliable stuffed toy generally having a furry or velvet-like exterior that may simulate the coat of a living animal.

Stuffed toy production is highly labor intensive; pieces must be hand-cut and sewn to produce the toy skin. The skin is sewn inside out, leaving a smal' opening with

[6] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

which the skin can be reversed and the filler material inserted. Prior to stuffing, eyes and other features may be added if not already part of the skin, so that once stuffed and closed the toy is essentially complete. For stuffed toys having hard extremities, the extremities are attached after the torso is stuffed, again essentially finishing the toy. The variety of patterns and styles commercially necessary to produce a full line of stuffed toys prevents the automation of most of the production process.

Although this product group consists of toys both for children's use and for collection or decoration, most stuffed toys are intended for use as children's toys. Stuffed toys are generally sold for preschool-age children, particularly infants. The second largest use or market for stuffed toys is as collectibles, decorative items, or gifts for older children, teenagers, and adults.

Complete stuffed toy figures and skins for such figures are domestically produced. Because stuffed toy animals are often large in size, reduced freight costs are often more important than higher labor costs in encouraging domestic production. Therefore, domestic production is generally concentrated in the largest toys and imports in the smaller sizes. However, the freight cost for skins is a much less important factor than the labor cost, so that there is significant domestic production consisting of stuffing imported skins. In general, imports are said to be comparable in quality to domestically produced stuffed toys.

Purpose.—The temporary suspension of the duty on imports of stuffed toys classified in TSUS item 737.30 was originially proposed in 1982 in broader legislation that eventually resulted in a temporary duty suspension (until December 31, 1985) on imports of stuffed dolls, doll skins, stuffed or filled toy figures of inanimate objects, and skins for toy figures of animate or inanimate objects. Industry sources maintained that the production of these products was so highly labor intensive that the U.S. toy industry had restored to sourcing almost exclusively from foreign production facilities.[7] Thus, any duty was arguably an unnecessary addition to the final cost to the consumer. TSUS item 737.30 was removed from the proposal after opposition from some importers and producers.[8]

The new proposal results from the varied application of duty-free treatment to imports under TSUS item 737.30 under the Generalized System of Preferences (GSP)[9] and the Caribbean Basin Economic Recovery Act (CBERA)[10] from the major supplying countries.[11] The Republic of Korea (Korea), the major supplier, is not eligible for duty-free treatment under the GSP due to competitive need limitations. Taiwan, the second leading supplier, will lose GSP eligibility as of July 1, 1985, for the same reason. China, the third largest supplier, is not eligible for any preferential tariff programs. Hong Kong, Mexico, and the Philippines, the fourth, eighth, and tenth largest suppliers in 1984, respectively, are eligible for GSP treatment. Haiti, the fifth largest supplier, is eligible under both GSP and the CBERA. Most of the larger U.S. firms in the stuffed toy industry source from more than one of these countries, some from all seven.

Comparison with present law

Tariff treatment under the TSUS.—As shown in the table below, the subject stuffed toys are currently dutiable under the provisions of TSUS item 737.30, at a column 1 rate of 6.4 percent ad valorem, a least developed developing countries

---

[7] Information supplied to Commission staff during preparatory work on legislation.

[8] The greatest opposition to the duty suspension on imports of stuffed toys came from Hasbro, Inc. (now Hasbro-Bradley), Pawtucket, Rhode Island, and Eden Toys, New York, New York.

[9] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[10] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[11] According to industry sources.

(LDDC) rate[12] of 5.5 percent ad valorem, and a column 2 rate[13] of 70 percent ad valorem. A table giving the pre-MTN rate and the staged rates from the Tokyo round of the Multilateral Trade Negotiations is attached to the report.[14]

[12] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[13] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[14] Imports from the Republic of Korea have been excluded from GSP treatment since March 1, 1978. Imports from Taiwan will be excluded, effective July 2, 1985.

STUFFED TOY FIGURES OF ANIMATE OBJECTS VALUED OVER 10 CENTS PER INCH OF HEIGHT: CURRENT U.S. TARIFF TREATMENT

Item	Articles	Col. 1	LDDC	Col. 2	GSP treatment	CBERA treatment
	Toy figures of animate objects (except dolls):					
	Stuffed:					
737.28	Valued not over 10 cents per inch of height	6.4% ad val.	5.5% ad val.	70% ad val.	Yes.	Yes, no limitations.
737.30	Valued over 10 cents per inch of height					

For the purposes of Customs classification, the term "animate" has traditionally included only animals or humanoid figures (other than dolls) that are predominantly earthly in nature. Nonearthly creatures, robots, machines, and vegetable or mineral objects vested with human or animal features are excluded, as are creatures that are hybrids of two or more earthly creatures. To be considered "stuffed" for Customs purposes, the skin of toy must be "crammed full" or "filled to fullest distension" with the stuffing material. Only traditional stuffing materials, such as shredded textile materials, are allowed. Materials such as bean-bag type fillers or crushed nutshells, which do not fill the skin to full distension, are excluded. In determining whether a toy is stuffed, only the torso is judged; extremities need not be stuffed or stuffable. The calculation of the height of stuffed toy figures is made on the toy in its naturally manufactured position.

Tariff treatment under the proposed Harmonized System.—According to the September 1984 draft U.S. converted tariff schedule issued by the Trade Policy Staff Committee, these stuffed toys would be classified in the Harmonized System (HS) in subheading 9503.41.00 as stuffed toys and parts and accessories thereof, with a proposed column 1 (General) duty rate of 6.8 percent ad valorem.

Structure of the domestic industry

Specific information concerning the domestic industry producing only the products covered by the legislation is not available. However, there were approximately 200 U.S. firms producing all types of dolls and stuffed toys in 1984. Employment in the doll and stuffed toy industry, which prior to 1982 had been declining, recovered somewhat in 1984, rising to about 7,800 employees, including about 6,600 production and related workers. The industry is concentrated in New York, New Jersey, California, and the New England states.

The twenty largest firms account for the bulk of domestic doll and stuffed toy production and, although there are small firms devoted solely to dolls and stuffed toys, nearly all the major producers also manufacture or market other toys, games, and children's vehicles. In addition, nearly all domestic producers, including all the major firms, import to some extent. These activities range from the importation of skins to significant investment in foreign production facilities for supplying both U.S. and foreign markets. Although there is some production of complete stuffed toys in the United States, most domestic producers of the toys covered by the legislation rely on imported skins. Those toys that are entirely manufactured in the United States are either the very largest toys or those toys sold as specialty items that do not usually compete in the "children's" toy market. It is not uncommon for those producers that do import parts of finished stuffed toys to export the production equipment, particularly cutting and sewing machines, to their overseas facilities.

The following firms produce stuffed toys in the United States:
Ace Novelty Co., Inc., Los Angeles, CA
Acme Premium Supply Corp., St. Louis, MO
BEC International, Inc., Compton, CA
Dan Brechner & Co., Inc., Floral Park, NY
Brooklyn Doll, Toy, & Novelty Co., Brooklyn, NY
California Stuffed Toys, Los Angeles, CA
Capitol Toy Co., Cleveland, OH
CBS Toys, Div. CBS Inc., Hollis, NY
Cuddlewit, Inc., Moonachie, NJ
R. Dakin & Co., San Francisco, CA
Doulgas Co., Keene, NY
Etone Intl., Inc., Jersey City, NY
Freemountain Toys, Bristol, VT
Lamb International, Danvers, MA
Middle Earth Toys, Tampa, FL
Mightly Star, Inc., Perth Amboy, NY
Peoria Plastics Co., Peoria, IL
Sewco, Inc., National City, CA
Shalom Toy Co., Inc., New York, NY
Superior Toys and Novelty Corp., Kansas City, MO
Trudy Toys, Norwalk, CT

Domestic production

The following tabulation shows the estimated value of domestic producers' shipments of stuffed toy figures of animate objects. All domestically produced stuffed toys are valued more than 10 cents per inch of height. It should be noted that these estimates include the value of imported parts incorporated in the toys.

[In millions of dollars]

1980	86.0
1981	102.6
1982	105.6
1983	104.4
1984	163.1

Producers' shipments in 1984 were substantially higher than average shipments during 1980–83, primarily because a number of new toy characters enjoyed tremendous popularity in the U.S. market in 1984. Most of this increase was supplied by imports, but U.S production also benefited. Production using imported skins increased by approximately 75 percent between 1983 and 1984.

U.S. imports

The following tabulation shows the quality and value of imports of stuffed toys entered under TSUS item 737.30 during 1980–84, according to official statistics.

Item	1980	1981	1982	1983	1984
Quantity—million units	38.7	47.7	55.5	77.3	166.7
Value—million dollars	62.3	72.3	85.6	115.1	296.4

Imports of these toys during 1984 were up 331 percent in quantity and 373 percent in value over the period as a whole, and up 116 percent in quantity and 158 percent in value over imports in 1983. Korea remained the largest source of imports over the period and accounted for 58 percent of the quantity and 57 percent of the value imported in 1984. Taiwan was the second largest source of imports during 1980–84, accounting for 27 percent of the quantity and 25 percent of the value imported in 1984. Other major import sources during the period were China (6 percent of the value of imports in 1984), Hong Kong (5 percent), Haiti (2 percent), West Germany (1 percent), Japan (1 percent), and Mexico (1 percent).

Imports under the GSP increased annually from 12.5 million units, valued at $16.5 million, in 1980 to 47.1 million units, valued at $83.1 million, in 1984. Taiwan accounted for 92 percent of the quantity and 86 percent of the value of all duty-free imports under the GSP in 1984. GSP imports do not account for a larger percentage of total imports because imports from Korea have been ineligible since 1978.

Imports under the CBERA were 600,000 units, valued at $2.9 million, in 1984. Haiti accounted for 80 percent of the quantity and 78 percent of the value of these imports.

Imports from column 2 sources were minimal during 1980–84, ranging from a low of zero in 1980 and 1982 to a high of $8,600 in 1983.

In general, imports from developing countries represent the products of current or former foreign investment, particularly investment by the U.S. toy industry. Imports from developed countries are generally specialty products, similar to many U.S. products.

The following firms are major importers of the products covered by the legislation:

Applause (Wallace Berrie & Co.), Van Nuys, CA
Avon Products, New York, NY
Russ Berrie & Co., Inc., Oakland, NJ
California Stuffed Toys, Los Angeles, CA
Coleco Industries, Hartford, CT
R. Dakin & Co., San Francisco, CA
Dan Dee Imports, Inc., Jersey City, NY
Eden Toys, Inc., New York, NY
Empire Pencil Co., Shelbyville, TN
Graphics International, Kansas City, MO
Gund, Inc., Edison, NY
Hallmark Cards, Kansas City, MO
Hasbro-Bradley, Pawtucket, RI
Kamar International, Torrance, CA
Kenner Products, Cincinnati, OH
Mattel, Inc., Hawthorne, CA
Reeves International, Inc., Pequammock, NJ

U.S. exports

U.S. exports of stuffed toy figures of animate objects consist primarily of (1) unfinished goods intended for further processing and reexport to the United States and (2) high-priced specialty items that compete in other markets in the same manner that U.S. imports from developed countries compete in the U.S. market. As such, U.S. exports were extremely limited, not exceeding 7 percent of producers' shipments in any year of the period 1980–84, and usually far less than that.

The following tabulation shows U.S. exports of stuffed toy figures of animate objects during 1980–84, based on official statistics.

Item	1980	1981	1982	1983	1984
Quantity—thousand units	1,162	2,186	1,068	1,396	772
Value—thousand dollars	2,880	6,735	3,267	4,936	2,981

Apparent U.S. consumption

The following tabulation provides estimated apparent U.S. consumption of the products covered by the legislation during 1980–84.

[In million of dollars]

1980	1981	1982	1983	1984
145.4	168.2	187.9	214.5	456.5

Apparent U.S. consumption increased annually during the period, taking the biggest jump in 1984 when, as was previously discussed, the U.S. market grew rapidly based on the popularity of a number of new characters.

Imports as a share of consumption also rose annually from 43 percent in 1980 to 65 percent in 1984. These figures are somewhat misleading, however, because they are based on the customs value of the imports. If the import value is inflated to the first U.S. billing value, comparable to data on producers' shipments and exports, imports as a share of apparent consumption increased from an estimated 63 percent in 1980 to over 80 percent in 1984.

Effect on revenue

Assuming that imports from Korea and Taiwan remain ineligible for duty-free treatment under the GSP during 1986–90 and that China does not gain GSP eligibility during the period, the enactment of the legislation would result in an estimated customs revenue loss of $20 million to $30 million in 1986 and an estimated annual loss of $20 million to $25 million during 1987–90.

Technical comments

In order to prevent any confusion as to classification, it is recommended that the phrase "valued over 10 cents per inch of height" be added to the proposed article description in temporary TSUS item 912.32, so that it would read: "Stuffed toy figures of animate objects (except dolls), valued over 10 cents per inch of height, not having a spring mechanism (provided for in item 737.30, part 5E, schedule 7)."

Section 2 should be amended by replacing "after December 31, 1985" with "on or after January 1, 1986".

ATTACHMENT

STUFFED TOY FIGURES OF ANIMATE OBJECTS VALUED OVER 10 CENTS PER INCH OF HEIGHT: U.S. COLUMN 1 RATES OF DUTY

[Percent ad valorem]

TSUS item No.	Pre-MTN col. 1 rate of duty [1]	Staged column 1 rates of duty effective with respect to articles entered on or after January 1—							
		1980	1981	1982	1983	1984	1985	1986	1987
737.30	9	8.6	8.1	7.7	7.3	6.8	6.4	5.9	5.5

[1] Rate effective prior to Jan. 1, 1980

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 2238, a bill "To extend for 5 years the existing suspension of duty on stuffed dolls, certain toy figures, and the skins thereof."

The Department of Commerce has no objection to enactment of H.R. 2238.

H.R. 2238 would continue through December 31, 1990, the current suspension of the column 1 (MFN) duties on stuffed dolls with or without clothing, the skins thereof, stuffed toy figures of inanimate objects without a spring mechanism, and the skins of toy figures. The column 2 (statutory) duty is unaffected by this legislation.

In the absence of the current duty suspension, stuffed dolls and the skins thereof would enter the United States under Tariff Schedules of the United States (TSUS) items 737.23 and 737.26, respectively, with a 1985 MFN duty of 13.4 percent ad valorem. This tariff is to be reduced to 12 percent ad valorem by January 1, 1987, pursuant to concessions made in the Tokyo Round of trade negotiations. Stuffed toy figures of inanimate objects (TSUS 737.47) and the skins of toy figures (TSUS 737.51) would enter with a 1985 MFN rate of 9.6 percent ad valorem. The final concession rate is 7 percent ad valorem.

All the affected categories are eligible for duty-free treatment under the United States Generalized System of Preferences (GSP). However, Taiwan is no longer eligible for GSP treatment for TSUS item 737.23. Also, while it lost eligibility for duty-free treatment of item 737.26 during 1984, Taiwan regained eligibility with respect to this item on July 1, 1985. South Korea is ineligibile with respect to TSUS item 737.51. Effective as of July 1, 1985, South Korea and Hong Kong are excluded from duty-free entry under TSUS items 737.23 and 737.47, respectively.

Continued suspension of duty on the products covered by H.R. 2238 would benefit domestic producers of dolls and stuffed animals. Domestic manufacturers are unable to obtain products of comparable quality from other Asian countries and Caribbean nations, which have duty-free status for these products.

Continued suspension of duty would not have a significant impact on most domestic producers, which now supply a small portion of the market. The remaining domestic production is accounted for by small firms with a narrow market focus. These producers generally compete on factors other than cost, such as a particular product feature or proximity.

We estimate that continuation of the suspension of duty would result in a revenue loss of $30.6 million, based on 1984 import data; or $51.4 million, based on import projections for 1985. There would be no effect on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

ACE NOVELTY CO.,
Bellevue, WA, June 25, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIR: Ace Novelty Co., Inc. manufactures stuffed toys employing approximately 300 people in our locations of LA, Chicago and Seattle. We import toy skins and finish them in the U.S. using recyclable waste products that would other-wise be unutilized material to be disposed of. A large percentage of the people we employ are hardcore, unskilled labors, many of hispanic and oriental descent that would have difficulty in todays job market. The labor and materials used in finishing our products comprise more than 50 percent of the value of the products.

We depend on the duty-free status of U.S. Customs classifications 737.23, 737.26 (912.30) and 737.47 (912.34) and 737.51 (912.36) covered by H.R. 2238 and H.R. 2335 to continue to be competitive in the US as well as export to Canada, Venezuela, and Puerto Rico.

We create support for many allied industries including freight firms, packaging materials, etc. and our customers, many of whom are amusement parks across the country, who inturn create employment in excess of 50,000 people.

Our company comprises about 5 percent of the Stuffed Toy industry in the United States. If you multiply these effects by 20 fold the impact if the bill were not passed would be disastrous. The effects of passage of H.R. 2238 and H.R. 2335 are far reaching to keep our U.S. workers employed and our business competitive with the World Market.

Yours truly,

BENJAMIN H. MAYERS, *President.*

ACME PREMIUM SUPPLY CORP.,
St. Louis, MO, June 27, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIR: We are an importer of toy skins and stuffed toys. We employ over 100 people in the St. Louis area and support contractors employing an additional 100 or more people including many handicapped and unskilled individuals whose jobs are to stuff and finish toy skins imported from the Orient. The labor and materials purchased in this country comprise over 50% of the value of the finished product.

We depend heavily on the duty-free status of U.S. Customs Tariff #737.23, 737.26 (912.30) and 737.47 (912.34). Failure to extend the GSP benefits by passage of H.R. 2238 and HR. 2335 would jeopardize and probably cause the stoppage of our U.S. manufacturing operations.

We feel it is imperative that bills H.R. 2238 and HR. 2335 are passed to allow us and several other companies in our industry to continue manufacturing in the U.S. and make a beneficial contribution to our economy through providing jobs, supporting our customers' businesses and associated industries, such as railroads, trucking companies and material suppliers.

Sincerely,

ROBERT V. DAWSON, *President.*

BORG TEXTILE CORP.,
Rossville, GA, June 28, 1985.

JOSEPH K. DOWLEY,
Chief Counsel Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: Borg Textile Corporation is a textile mill which supplies pile fabric used for stuffed toy animals to the domestic toy companies all over the United States.

It is our continued concern that American Manufacturers are being put out of business by our own government as more and more finished products, such as stuffed toys, are imported to the U.S.

We strongly oppose (H.R. 2238 and 2335) the extension of suspending duty on stuffed dolls or toys because this encourages more imported stuffed toys, and puts both our own company and our suppliers out of business.

Thank you for your time and attention.
Sincerely,

M.A. SCHUSTER,
Vice President—Marketing.

C.&T. TOY CO.,
Brooklyn, NY.

I am in immediate need of your help. Your vote on bills H.R. 2335 and H.R. 2338 will determine the survival or failure of the toy business I have worked so hard to establish. I own and operate C.&T. Toy Company in Brooklyn, New York where we design, manufacture, and distribute stuffed toys, mainly large sizes, 24 inches and larger, a market which in the past was uninfluenced by importing countries. This has not been the case since government laws lifted the imposed tariff on such items. Since, we have been fighting a losing battle to make representatives aware of the harm being done to our company and to the American Toy Industry as a whole. We can not maintain our company as long as our customers have access to identical items at lower prices. Even when we produce an original best-seller, we cannot compete with their copy.

I've done my best to point out the impossibility of American companies competing with importing countries in hopes that something be done. I am asking that an import duty be placed on their goods or a limit placed on the size toys they can ship into this country. So far we have received no help. As long as other countries have the advantage of lower manufacturing costs and untaxed importation my business will continue to erode. Approval of the proposed bills H.R. 2335 and H.R. 2338 will make certain my company's failure. Ironically, I have no vote on a matter so much a factor of my future. I can only hope that I have helped to persuade you to turn down these bills.

Thank you for your time and help in this matter.
Sincerely,

TONY BARONE, *President.*

NEW YORK, NY, *June 26, 1985.*

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means.

DEAR MR. DOWLEY: On behalf of Coleco Industries, Inc. and MBI, Inc., we submit these comments in support of H.R. 2238, 99th Cong., 1st Sess. (1985). This bill was introduced to extend for five years the existing suspension of duty (in effect since early 1983) on merchandise provided for in Items 912.30, 912.34 and 912.36, TSUS. Specifically, both Coleco Industries, Inc. and MBI, Inc. urge continuation of the suspension of duty on stuffed dolls (with or without clothing) currently provided for under Item 737.23 (912.30) of the Tariff Schedules of the United States.

As demonstrated below, all relevant considerations dictate that the existing suspension of duty should be extended, and that stuffed dolls (with or without clothing) should continue to enjoy the benefits of duty-free treatment.

I. INDIVIDUAL COMPANY CONSIDERATIONS

A. MBI, Inc.

MBI, Inc. [hereinafter MBI] is a corporation whose principle place of business is located at 47 Richards Avenue, Norwalk, Connecticut. MBI is engaged in the importation of collectibles and ornamental objects from various countries. These articles are offered for sale nation-wide through nationally distributed magazines on a direct order basis.

MBI has developed and marketed several series of stuffed dolls which would be affected by an extension of the current duty suspension. A representative list of the series includes American Bride Dolls, Dolls of the World and the Princess Diana Bride Doll. Other doll programs are currently in progress and importations are scheuled to commence this year.

The dolls are manufactured in various countries and are imported directly therefrom. All have stuffed torsos, and their respective heads, hands and feet are handcrafted of fine porcelain. The facial features are sculpted and hand-painted, and each doll's costume is designed and tailored with historical and geographical authenticity in mind.

After importation, the dolls are packed into cardboard mailing boxes and directly mailed to those who have subscribed for them. Thus, MBI's dolls are not offered for sale through retail establishments, and do not compete in the marketplace with dolls which are available at such retail establishments or smaller, exclusive boutiques. Rather, MBI's dolls are aimed at a different market—one interested in purchasing moderately priced collectibles through the mails.

We have been advised that dolls of the type imported by MBI are not manufactured in this country. Furthermore, we understand that even were such dolls to be domestically produced, they could not compete with imported dolls of the same class or kind (i.e., having hand-crafted porcelain faces, arms and legs) due to price differentials resulting from significant variances in material and labor costs in the United States and abroad. Therefore, it becomes evident that MBI's imported stuffed dolls do not compete directly or indirectly with merchandise produced in the United States and that their duty-free entry into the U.S. market does not and will not adversely affect or cause injury to any United States industry.

B. Coleco Industries, Inc.

Coleco Industries, located at 999 Quaker Land South, West Hartford, Connecticut, is a leading manufacturer of toys and family entertainment products. It employs approximately 6,000 people, primarily at its corporate headquarters in West Hartford, and its factory and pack-out facilities, located in the Mohawk Valley of New York State, an economically depressed region.

The impact of the temporary legislation to the overall health of this company has been dramatic, particularly in light of the popularity of its stuffed Cabbage Patch Kid dolls and accessories. In calendar year 1984, Coleco's toy divisions achieved record profits of 209 million dollars based on revenues in excess of 676 million dollars. Approximately 80% of those revenues were directly attributable to Cabbage Patch Kids products (i.e., dolls, related products and accessories).

Because the stuffed dolls constituted nearly 75% of the Cabbage Patch line revenues, the importance of the duty suspension to Coleco's performance cannot be overstated. As the company noted at p.2 of its 1984 Annual Report:

"Sales of Cabbage Patch Kids products of more than $540 million led our toy segment to a year of record sales and opearting profit * * * Through the continued expansion of our Cabbage Patch Kids line and major new product introductions, Coleco plans to strengthen the strategic foundation of its business and maintain its important position as a toy leader * * *"

The success of Coleco's stuffed doll product line was particularly significant to the company because it offset losses in its electronics divisions, including its disposition of the ADAM computer system below cost.

In the first quarter of 1985, the Cabbage Patch line continued to play a paramount role in Coleco's future. In its interim report to the stockholders, the company noted:

"The strong first quarter sales performance resulted primarily from the continuing success of the Cabbage Patch Kids product line. In excess of $150 million in Cabbage Patch Kids products were shipped in the first quarter, more than twice the amount shipped in the first quarter of 1984."

The duty savings attributable to the duty suspension covering stuffed dolls under Item 737.23/912.30, TSUS, has significantly enhanced Coleco's position in the toy industry and brightened its prospects for the future. Thus, the temporary legislation is a bold example of the way in which a duty suspension can be utilized to foster the health of a domestic business entity.

II. ADDITIONAL CONSIDERATIONS

It is no secret that the proposed legislation enjoys the support of major segments of the United States toy industry and that opposition to the legislation is virtually non-existent. This is particularly noteworthy, since the suspension of duty one stuffed dolls has already been in effect for more than two years. The industry has had ample time to assess the merits of duty suspension, and its popularity continues unabated. Thus, Congress need not speculate regarding the impact of continued duty suspension on the toy industry.

Clearly, the duty suspension has had only salutory effects on the U.S. toy industry, to the advantage of consumers and the U.S. economy as a whole. Where rising costs warrant utilization of foreign resources, U.S. companies have turned to overseas suppliers to obtain items necessary for their products to remain competitive. In turn, increased competitiveness has beneficially affected a broader range of products which may be domestically produced. (For example, Coleco markets a full line of Cabbage Patch accessories, some of which are produced in the United States, in

whole or in part). Continued enhancement of the competitiveness of the U.S. toy industry by extension of the duty suspension can only increase the prospects of continued industry growth and health.

Whatever benefits extension of the duty suspension will have for the industry will also be passed along to American consumers at various levels of trade. Continuation of the duty suspension will broaden the range of consumer product choices by inspiring the development of new product lines entitled to the benefits of temporary duty-free treatment. Moreover, extension of the existing duty suspension will result in lower costs to the wholesalers, retailers and ultimate consumers of stuffed dolls. The duty suspension will also enable order subscribers to continue to obtain collectible stuffed dolls at moderate prices, even though like dolls are not presently manufactured in this country. Such results are beneficial not only to particular companies or individuals, but to a broad sector of the U.S. economy whose activity can only continue to be stimulated by heightened demand and a demonstrable increase in sales at various levels of trade.

Beyond benefits to the United States, and consistent with other U.S. policy objectives, the legislation has also bolstered the economies primarily of nations regarded as economically underdeveloped. Indeed, in calendar year 1984, of the eight leading sources (both in quantity and U.S. dollars) of stuffed dolls imported into the United States, six such sources (Hong Kong, Taiwan, Korea, Macao, Mexico and the Republic of the Philippines) have been designated under a U.S. trade preference program (the Generalized System of Preferences), as countries in need of special tariff treatment to foster economic development. Additionally, the duty suspension will further the establishment of trade relations with another of these leading sources, the People's Republic of China, and will thus promote a central political, economic and foreign policy objective of the United States in recent years.

Therefore, it is evident that renewal of the temporary duty suspension will have positive consequences both within and beyond our borders.

III. CONCLUSION

For all the foregoing reasons, it is respectfully submitted that enactment of H.R. 2238 would benefit U.S. industry, consumers and the economy as a whole, while fostering national policy objective. Therefore, we offer our support of this bill and respectfully urge its prompt enactment so that the existing suspension of duty on stuffed dolls is continued through 1990, retroactive to the date of expiration.

Respectfully submitted,

SIEGEL, MANDELL & DAVIDSON, P.C.,
Counsel for Coleco Industries, Inc. and MBI, Inc.

CONCESSION MANAGEMENT CORP.,
Santa Monica, CA, June 27, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: It has come to my attention that the United States Government is considering levying an import duty on stuffed toy skins that are imported from Korea and Taiwan.

This action will cause many jobs in the United States to be lost or hours to be reduced because the final production on these toys is done in this country. Our Company acting as an agent imports many of these toys and contracts the finishing process out to local factories.

If a duty is levied, it would change the whole cost structure so as to possibly make it economically feasible to import only finished toys which will cause a loss of American jobs.

I strongly advocate the United States continue its current position of allowing stuffed toy skins to remain duty free.

Thank you very much for your consideration and cooperation.

Sincerely yours,

MAYNARD OSTROW, *President.*

EDEN TOYS, INC.,
New York, NY, June 26, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: This letter is submitted by Eden Toys, Inc. (Eden) in support of the enactment of H.R. 2335 and H.R. 2238. Eden was founded in 1939 and is a leading supplier of higher priced stuffed toys and dolls in the United States. Eden is and has been a manufacturer, assembler, and importer of these products, seeking to remain competitive despite rising labor costs, by integrating its U.S. and offshore operations. Eden currently has over 150 employees in the United States.

We strongly support H.R. 2335, which would temporarily suspend, until December 31, 1990, the duty on stuffed toy figures of animate objects, as well as H.R. 2238, which extends for five years the existing suspension of the duty on stuffed dolls and stuffed or filled toy figures of inanimate objects and their skins. We are most interested in H.R. 2335 because eighty-five percent of our product falls in this classification.

In 1982 Eden opposed the legislation which authorized the current duty suspension on stuffed dolls, stuffed inanimate objects and their skins because the suspension excluded the products which Eden was most concerned about, namely stuffed figures of animate objects. The legislation was tailored to meet the needs of certain competitors of ours, giving them an unfair market advantage.

Eden now supports both H.R. 2238 and H.R. 2335 because we have adjusted our production and import mix of these products to take maximum advantage of the duty suspension, as well as GSP and CBI. By doing so we have increased our efficiency and are now able to compete on an equal basis with others in the U.S. toy market including those with wholly foreign operations and little if any U.S. value added.

Given the integrated nature of our overseas production and procurement activities and our domestic operations, the assessment of duties on stuffed dolls, toy figures and their skins serves only one purpose—to increase the cost of these products to U.S. consumers, and make them less competitive for the discretionary spending of those who buy toys for infants and children. Approximately 100 of our employees are involved in warehousing, sales and administrative work and 50 in the manufacture of toys in the United States, either wholly or by assembly of imported components. The duty-free entry of our toy products allows us to maintain and expand our business and maintain our domestic employment by keeping Eden price competitive in the domestic market place. Eden's investment decisions in sourcing from developing countries, which have now been made, are unlikely to be affected by the failure to extend duty-free treatment to these products as provided by these bills, since the differences in costs between U.S. and offshore production exceed by several times the amount of the duty. Therefore, the continued imposition, or reimposition, of duties on these toy products cannot preserve or cause the development of a domestic industry for low cost stuffed dolls and toy figures. Rather it may cause job losses for our U.S. employees involved in the sales and marketing of these items as well as those manufacturing or assembling stuffed toys in our domestic facilities.

Eden Toys urges the enactment of H.R. 2238 and H.R. 2335 because their passage will help keep down costs, thereby benefiting our company and our employees, the domestic toy industry, and the American consumer.

Sincerely,

DAVID A. MILLER, *Chairman.*

ETONE INTERNATIONAL INC.,
Jersey City, NJ, June 27, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: Etone International, Inc. employing in excess of 100 people, a large percentage of which are unskilled laborers of Hispanic and other minority groups, manufactures stuffed toys.

We import toy skins and finish them at our locations in Jersey City and Los Angeles using recyclable waste products that would otherwise be unutilized materials. The labor and materials used in finishing our products comprise more than 50 percent of the value of the products.

We depend on the Duty-Free Status of U.S. Customs Classifications 737.23, 737.26 (912.30) and 737.47 (912.34) and 737.51 (912.36) covered by H.R. 2238 and H.R. 2335 to continue to be competitive in the United States as well as export to Canada and Puerto Rico.

We create, work for many allied industries including freight firms, contractors, suppliers of packaging and other related materials. Our customers, many of whom are amusement parks across the country and are large volume users of our products, in turn create employment in excess of 50,000 people.

Our company comprises about 3 percent of the stuffed toy industry in the United States. If you multiply these effects 30 fold the impact of the bill if not passed will be disastrous.

The effects of passage of H.R. 2238 and H.R. 2335 are extremely important to keep our U.S. workers gainfully employed and off the welfare rolls, and our business competitive with the market.

Sincerely,

ROBERT ELISON, *President.*

EUGENE DOLL & NOVELTY CO., INC.,
Brooklyn NY, June 17, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: This statement is submitted in the names of the 300 employees that have worked for this company for the last 3 decades. We have enclosed a list of our employees names and computer identification numbers.

As a result of the ever increasing importation of dolls, our 200,000 Sq. ft. Brooklyn, N.Y. manufacturing facility is fast disappearing and with it goes our ability to honor our responsibility to this community and the people who have helped us be successful.

At the present time we have but 30 percent of our employees and the prognosis from the likes of our customer base, K-Mart, Wal-Mart, Sears, etc. is very bleak and the reason stated is overbuying dolls from the Orient coupled with the underbuying by consumers.

The erosion of our business has taken on the same profile as the shoe and handbag industries, which are virtually nonexistent in the U.S. We doubt if we can survive another year.

We know our Brooklyn based doll business is relatively insignificant in the total national scheme of things but yet I believe we typify the nations problem in its losing battle to the trade imbalance. We should be heard and seriously considered.

We therefore recommend H.R. 2238 and H.R. 2335 not be extended.

We therefore recommend that a severe duty be imposed on dolls per se.

Sincerely,

ROBERT J. SEIDENBERG,
Treasurer and Partner.

(Attachments have been retained in the committee files.)

GOLDBERGER DOLL MANUFACTURING CO., INC.,
Brooklyn, NY, June 19, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: We very strongly oppose Tariff Bill H.R. (Mrs. Schneider) which would extend for 5 more years the suspension of duty on stuffed dolls.

Our company has manufactured dolls in Brooklyn, New York since 1917. Before the suspension of duty on stuffed dolls, we employed in our 300,000 square foot factory over 600 people, mostly semi-skilled and unskilled workers. As a result of the suspension of this duty our work force has been reduced to 300 people. The manufacturing of cloth body dolls has shifted to Hong Kong and Taiwan and we import many of the dolls that before 1980 we manufactured here.

Our factory has become to a large extent a warehouse rather than a workplace and we can no longer employ the people who worked for us for so many years.

Not only our company but much of the doll manufacturing industry has been affected the same way and thousands of semi-skilled and unskilled workers have lost their jobs.

It is difficult to fathom why just this category of stuffed dolls has been selected for suspension of duty except that it benefits certain influential importers.

We urge the U.S. House of Representatives not to pass Tariff Bill H.R. 2238 which extends for 5 more years the suspension of duty on stuffed dolls.

Very truly yours,

LAWRENCE DOPPELT, *Vice President.*

Attachment.

TOPICAL OUTLINE

1. We strongly oppose the passing of Tariff Bill H.R. 2238 which would extend the suspension of duty for 5 more years.
2. As a result of suspension of duty, our labor force of mostly semi-skilled and unskilled workers has been reduced from over 600 to 300.
3. We import rather than manufacture and our 300,000 sq. ft. factory in Brooklyn has become more a warehouse than a workplace.
4. Much of the doll manufacturing industry has been affected and thousands of semi-skilled and unskilled workers have lost their jobs.
5. No reason exists for suspension of duty on just this category of dolls while leaving duty on all others except that it benefits certain influential importers.

STATEMENT OF HON. BILL GRADISON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

The Trade Subcommittee is now considering two bills which are extremely important to the U.S toy industry, including Kenner Products which employs 2650 people in the Cincinnati area. H.R. 2238 and H.R. 2235, which Rep. Schneider and I have introduced, would suspend customs duties on imported stuffed dolls and imported stuffed animals, respectively, for the period January 1, 1986 through December 31, 1990.

This legislation would offer substantial benefits both to U.S. toy manufacturers and American consumers. Stuffed dolls, which currently benefit from duty suspension legislation that expires at the end of 1985, will be subject to a most-favored-nation (MFN) tariff rate of 12.7 percent (ad valorem) in 1986 if H.R. 2238 is not enacted this year. The MFN tariff on stuffed animals will be 6.4 percent unless suspended by the enactment of H.R. 2235. Tariff rates are or will be reflected in higher prices paid for these toys by retailers and consumers. Import duties also reduce profit margins of U.S. importing companies such as those dominant in the toy business.

Toy manufacturing by U.S. companies is largely done overseas because of the availability of low-skilled, labor-intensive technology there. Domestic employment in the toy industry, including jobs in my own district, is made possible by the ability to import reasonably priced toys and parts that sustain U.S. toy company operations. Generally, employees of U.S. toy manufacturers are primarily engaged in assembly, packaging, shipping, marketing, sales and administration.

Given the structure of the industry, imports help support domestic employment. There are few production jobs in this line of business in the United States. As a result, the only measurable effect of import duties on stuffed dolls and animals is increased prices for the American consumer and increased unemployment for American workers.

In considering this legislation, the subcommittee is likely to be faced with two questions concerning their possible effect on other trade discussions:

1. Will enactment of these duty suspension provisions undermine the review of product and country eligibility for benefits under the GSP program?
2. Will enactment of these bills give away negotiating leverage we could use in winning concessions to open markets in other countries, such as South Korea and Taiwan?

To the first question, I would argue that the duty suspension legislation recognizes realities in the toy industry that the GSP program does not. The GSP program sets competitive need limits which remove certain highly competitive producing countries from GSP eligibility in order to promote production in less developed countries. For example, Taiwan has lost GSP eligibility for both dolls and stuffed animals, and Korea has lost it for dolls. In this case, however, the price differential caused by eliminating duties in selected countries under GSP is not enough to divert

toy production away from high quality, low-cost suppliers such as Korea and Taiwan. Eliminating GSP benefits for these countries that exceed their "competitive need limits" in stuffed dolls and animals has meant higher prices for consumers, rather than increased production in less developed countries.

I also want to address the second question concerning the loss of negotiating leverage because it has been raised in the past in connection with toy imports. I firmly believe the U.S. should encourage foreign governments such as Taiwan and Korea to open their markets to U.S. goods and to crack down on counterfeiting violations. U.S. toy manufacturers find tremendous advantages in producing abroad, however, and will continue to do so with or without tariffs. Imposing or maintaining tariff barriers for stuffed toys, therefore, does not work as a penalty against the producing countries. Instead, the full cost is borne by U.S. toy companies, and American consumers and workers.

The bottom line is that there is not significant domestic employment remaining in the industry for which these import duties were imposed in the first place. Thousands of jobs in my district and elsewhere in the United States depend on the importation of good quality, low-cost stuffed dolls and animals. Enactment of this legislation would relieve American businesses and consumers of needless costs and would keep and even expand U.S. jobs.

Thank you for your consideration.

HALLMARK CARDS INC.,
Kansas City, MO, June 28, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. GIBBONS: As you know, Rep. Claudine Schneider has recently introduced two bills to the House Ways and Means Trade Subcommittee. One bill, H.R. 2238, is an extension of existing legislation which exempts stuffed dolls from Customs duties. The other bill, H.R. 2335, co-sponsored by Rep. Willis Gradison, would grant a similar exemption to stuffed animals. Hallmark Cards, Incorporated urges your support of these bills.

Hallmark Cards, Inc., which is headquartered in Kansas City, Missouri, employs over 22,000 people in the United States. In 1984, sales were over $1.5 billion. Imports of stuffed dolls and stuffed animals amounted to a total retail value in excess of $25 million.

Hallmark Cards has found imports to be critical to its continued success in this market. The toy industry (including Hallmark) has benefitted from a long-term rationalization of resources as U.S. companies have turned to foreign suppliers for those products where it has been cost-effective to do so. Imports clearly have enhanced the competitiveness of this U.S. industry, enabling it to retain its status as a world-class competitor.

Enactment of the bills sponsored by Rep. Schneider would enhance the competitiveness of Hallmark Cards and other U.S. companies in this market. It would also benefit U.S. consumers, particularly given the relatively high most-favored-nation (MFN) rates of duty applicable to some of the items.

Enactment of the above bills, while clearly serving U.S. economic interests, would also be consistent with other objectives of the U.S. government. While obviously assisting the more developed Orient manufacturers, the bills would not undermine market development in the lesser developed countries. Toy production will continue to grow in countries at many different levels of development regardless of the dutiable status. These two bills offer an enhancement of that development for all and will benefit the U.S. toy industry, our company, and our consumers.

For the foregoing reasons, Hallmark Cards, Incorporated respectfully requests that you support H.R. 2238 and H.R. 2335. This letter represents official comments submitted to the Ways and Means Committee per your invitation.

Sincerely,

RAE EVANS, *Staff Vice President, National Affairs.*

STATEMENT OF STEVEN L. RODYN, DIRECTOR SPECIAL PROJECTS, HASBRO, INC.

H.R. 2238

We are writing in support of Bill H.R. 2238 introduced into the House of Representatives by Representative Claudine Schneider and co-sponsored by Representa-

tive Willis Gradison, which is an extension of existing legislation exempting stuffed dolls, certain toy figures and skins thereof from Customs duty for an additional five years.

Hasbro, Inc., is based in Pawtucket, Rhode Island, and has recently become the largest manufacturer of toys and games in the world with a domestic work force of approximately 5,000 people. Like other major U.S. toy companies, we import part of our product line from the Far East, which has contributed significantly to our growth over the past few years.

Without imports, our size and growth would have been restricted to the output capacity of our domestic facilities. Fortunately, this has not been the case, as imports have generated additional sales beyond our domestic capacity and have helped provide the financial resources to expand our product range.

We are now in the middle of an unprecedented growth phase in which we have increased our sales from 250 million dollars in 1983 to projected sales of over one billion dollars in 1985. As a result, we are rapidly and significantly increasing our domestic work force to keep up with our increased demands. This could not have been accomplished without the ability to import, from low cost labor countries, those products which require significant amounts of hand labor, such as sewing, spray painting, hair rooting, and special molding techniques.

Because of our increased needs for goods and supplies, many of our domestic suppliers have also had to expand in size and employment to support our needs.

We are also proud to be supporting the U.S. Merchant Marine, as our products are imported on American flag carriers.

Passage of H.R. 2238 will allow Hasbro to continue to import our high quality, competitively priced line of stuffed dolls, which are imported unpackaged in bulk cartons to Seattle, Washington, and placed in consumer packages by a work force of approximately 100 people hired specifically for this operation.

Support of this piece of legislation will also allow Hasbro to increase and expand the doll categories affected by H.R. 2238, which in turn will help us continue to maintain and expand our direct and support manpower needs.

Failure to enact this bill would result in a 12.7 percent rate of duty for 1986 and a permanent 12 percent duty rate from 1987 on. Should this be the case, most toy importers due to limited profit margins will be forced to increase their selling prices at the expense of the consumer. The only other option we would have would be to remove cost from the product, thus giving less value to the consumer.

We cannot emphasize enough how important this bill is to Hasbro, the entire toy industry, and to the consumer.

Please be aware this is not a revenue loss bill, as it is an extension of existing legislation which has in the three years since its enactment as Bill H.R. 5764 proven beneficial throughout the industry with no adverse affects to the domestic work force, domestic manufacturing operations, or to the ultimate consumer.

We have been in close contact with other toy manufacturers and with the Toy Manufacturers of America, Inc., and have, at this point in time, encountered little or no opposition in our efforts to support the enactment of this bill.

We sincerely appreciate the time and effort taken to review our testimony and respectfully request your support the enactment of Bill H.R. 2238.

H.R. 2335

We are writing in support of Bill H.R. 2335 introduced into the House of Representatives by Representative Willis Gradison and Representative Claudine Schneider to suspend temporarily the duty on certain stuffed figures until December 31, 1990.

Hasbro, Inc., is based in Pawtucket, Rhode Island, and has recently become the largest manufacturer of toys and games in the world with a domestic work force of approximately 5,000 people. Like other major U.S. toy companies, we import part of our product line from the Far East, which has contributed significantly to our growth over the past few years.

Without imports, our size and growth would have been restricted to the output capacity of our domestic facilities. Fortunately, this has not been the case, as imports have generated additional sales beyond our domestic capacity and have helped provide the financial resources to expand our product range. We are now in the middle of an unprecedented growth phase in which we have increased our sales from 250 million dollars in 1983 to projected sales of over one billion dollars in 1985. As a result, we are rapidly and significantly increasing our domestic work force to keep up with our increased demands. This could not have been accomplished without the ability to import, from low cost labor countries, those products which re-

quire significant amounts of hand labor, such a sewing, spraying painting, hair rooting, and special molding techniques.

Because of our increase needs for goods and supplies, many of our domestic suppliers have also had to expand in size and employment to support our needs.

We are also proud to be supporting the U.S. Merchant Marine, as or products are imported on American flag carriers.

Passage of H.R. 2335 will allow Hasbro to continue to import our high quality, competitively priced line of stuffed animals, which are imported unpackaged in bulk cartons to Seattle, Washington, and placed in consumer packages by a work force of approximately 100 people hired specifically for this operation.

Support of this piece of legislation will also allow Hasbro to increase and expand the stuffed animal categories affected by H.R. 2335, which in turn will help us continue to maintain and expand our direct and support manpower needs.

Failure to enact this bill would result in a 5.9 percent rate of duty for 1986 and a permanent 5.5 percent duty rate from 1987 on. Should this be the case, most toy importers due to limited profit margins will be forced to increase their selling prices at the expense of the consumer. The only other option we would have would be to remove cost from the product, thus giving less value to the consumer.

We cannot emphasize enough how important this bill is to Hasbro, the entire toy industry, and to the consumer.

We have been in close contact with other toy manufacturers and with the Toy Manufacturers of America, Inc., and have, at this point in time, encountered little or no opposition in our efforts to support the enactment of this bill.

We sincerely appreciate the time and effort taken to review our testimony and respectfully request your support for the enactment of Bill H.R. 2335.

HORSMAN DOLLS INC.,
New York, NY, June 10, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Ways and Means Committee, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: We are domestic manufacturers of stuffed dolls, and our Company has been in business since 1865. We have a 275,000 square foot manufacturing facility in Cayce, South Carolina and have been located there since 1960. At our "peak season", we employ up to 600 people who reside in that state. Our general offices and executive offices are located at 200 Fifth Avenue, New York, New York 10010.

It has come to our attention that there are two (2) Bills under consideration in the House and Senate—H.R. 2238 and S. 1089 respectively. These Bills are "To Extend the Duty Free Status for Stuffed Dolls".

Mr. Dowley, in as few words as possible, we do not approve of these Bills. The duty free status of imported dolls from the Orient has seriously affected our business and continues to do so. We have already seen the adverse effects which imports have had on the steel, automotive, textiles, shoes, electronics, silicon chips and many other industries.

Everyone is concerned about national debt, tax reforms and the economy, and we continue to do nothing to help ourselves by allowing duty free status for many items. The retailers, of course, are always looking for the cheapest products which they continue to buy from the Orient. This practice eliminates more jobs for people in the United States and at some point in time there won't be anyone working in the United States to purchase what the retailers are trying to sell.

The continuance of duty free status simply puts more people out of work, which provides lower tax revenues to run our Government and less jobs for our citizens. We would appreciate any efforts on your behalf to defeat these Bills.

Very truly yours,

FRANK G. RUBURY, *President.*

HORSMAN DOLLS INC.
New York, NY, June 3, 1985.

JAMES K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: We at Horsman Dolls would be against the proposed extension for five years the existing suspension of duty on stuffed dolls, and the skins thereof. (H.R. 2238)

Horsman Dolls is the only doll manufacturer which manufactures 100 percent of its product in the United States. No parts or components are imported. We employ 400 individuals who would lose a means of livelihood if this GSP is extended. It is not feasible economically to compete in an area where the same type of product is allowed to enter the USA without tariff, or penalty.

We at Horsman have been manufacturing dolls in the United States since 1865. It would be very disappointing to see 120 years of tradition be dismissed and forgotten without any thought to the ramification of the consequences if this classification is allowed to remain GSP. Have not enough industries suffered (shoes, autos, steel and numerous others) due to a blatant stroke of the pen to give another country Carte-Blanche which in turn has virtually made some of those industries disappear from the American scene without any reciprocation.

We, at Horsman implore you to consider all facets of this situation and especially to consider the potential loss of taxpayers, and the considerable burden which would be placed on the community if this amount of workers would be without our facility to employ these energetic Americans.

Sincerely yours,

FRANK G. RUBURY, *President.*

STATEMENT OF HARRY WEINSTAIN, PRESIDENT, HUG-UM TOY CO., INC.

It has recently been brought to my attention that two new bills have been proposed which are of utmost importance to me as president of a small toy company in Florida. My company manufactures stuffed toys and for the past year we have struggled to make ends meet as more and more of our customers discover the savings offered by importing countries. It is impossible for my American company to compete with the low wages and low material costs of countries like Korea, Tiawan, and China, yet my government allows these countries to manipulate my customers with unmatched low prices on the same items we have. It angers me that my government allows this to happen as my business deteriorates. We have been hurt badly by government laws allowing imports to come into this country duty-free and expect our government's help in changing such laws. Instead, we learn of the proposed bills, H.R. 2335 and H.R. 2338 to lengthen the life of the untaxed foreign imported toy. Your vote on these bills will decide the future of my business. Please vote No and give us, as Americans, a fair chance.

KENNER PRODUCTS,
Cincinnati, OH, June 27, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Kenner Products wishes to inform you of its support for two duty suspension bills now pending before the Subcommittee on Trade. H.R. 2238 provides a suspension of duties on imported stuffed dolls (TSUS item 737.12) beginning January 1, 1986 and running through December 31, 1990. This measure will extend a duty suspension provision enacted by Congress in 1982 (PL 97-446) which expires at the end of 1985. The other bill, H.R. 2335, suspends duties on imported stuffed animals (TSUS 727.30) for the same 5-year period, January 1, 1986 through December 31, 1990.

This legislation is important to the domestic toy industry and has widespread support among U.S. toy manufacturers. We have been in contact with at least ten major American toy companies, as well as the Toy Manufacturers Association, all of whom have indicated their intention to submit endorsements to your subcommittee. As you are aware, toy manufacturing by U.S. companies is largely done overseas because of the low-skilled, labor-intensive nature of the technology. Our domestic employment at Kenner, about 2400 people nationwide, is made possible by our ability to import reasonably priced toys and parts that complement our U.S. operations. Kenner's U.S. employees are primarily engaged in assembly, packaging, shipping, marketing, sales and administration, and most other major American toy companies do business in a similar manner.

Given the structure of the industry, imports help support our domestic employment. Tariffs do not protect U.S. workers because there are virtually no production jobs remaining in this line of business in the United States. As a result, the only measurable effect of import duties on stuffed dolls and animals is to raise prices to the American consumer.

In anticipation of questions by the subcommittee members or staff, I would like to point out that, while Kenner does import many of its toys from GSP and CBI countries, we continue to find it necessary to seek a suspension of duties. This is primarily because two of our best suppliers of quality stuffed toys, Korea and Taiwan, have exceeded their GSP "competitive need limits" and are no longer eligible for duty-free treatment on those items. The effect of this, in the absence of a duty suspension, will be to raise the cost of our products to the buyer, not divert stuffed toy production to lesser developed eligible countries.

The reasons are simple, Mr. Chairman. Our decision to do business in any particular country is based on a combination of factors including quality of product, reliability of service, cost, political stability and access to transportation routes. The cost differential between duty-free and non-duty-free suppliers is not significant enough to overcome the quality and reliability advantages enjoyed by our primary suppliers in the case of stuffed animals and dolls.

Furthermore, in anticipation of another question that has arisen in the past, I would point out that granting duty suspensions for stuffed toys is not at all likely to yield negotiatiang positions to the United States' trading partners, because the vast majority of production is now offshore and will remain there whether duties are imposed or not.

The only result of maintaining tariffs on stuffed dolls and animals, as I have illustrated, will be to increase the cost of toys to our consumers, your constituents. There is no significant domestic employment being protected by maintaining these trade barriers.

Therefore, Mr. Chairman, Kenner urges your support of H.R. 2238 and H.R. 2335. Please let me know if we can provide you with any further information that would assist in your deliberations on this matter.

I am enclosing for your review a background paper supporting our position. This is primarily factural material about legislative history, toy industry manufacturing practices, and trends in domestic U.S. toy production and foreign toy imports.

Thank you for your consideration.

Sincerely,

GARY KLEVEN,
Senior Vice President, Finance and Controller.

[Attachments have been retained in the committee files.]

LAGOON CORP.,
Farmington, UT, June 26, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR COUNSEL DOWLEY: I am writing in regards to the current discussion and research in reference to an additional duty being levied upon merchandise shipped from the Orient to the United States. I understand the items in question are toys, stuffed animals, skins, miscellaneous merchandise, and other items.

As a stockholder, officer, and director of a family amusement park in Farmington, Utah, I am deeply concerned about this duty. I have been intimately involved in the purchasing of this type of merchandise for the past ten years at our park and therefore, have some deep feelings on the ramifications of such a duty.

This duty could severely hurt the amusement park industry and supportive companies. At the present time there is a very fine line between our ability to purchase quality merchandise at a price that will produce a small profit on the retail end. Not only could such a duty hurt retail sales but produce a marked negative effect on other related industries which produce such merchandise. Additional duties might possibly require toys and other merchandise to be finished completely in the Orient as opposed to finished here in our country. Obviously, this would result in lost jobs, reduced tax base, etc. in this sector.

I would like to go on record as opposing this type of measure. Current taxation and duty is sufficient. On behalf of Lagoon Amusement Park and Pioneer Village I ask you to completely research this proposal before acting.

Sincerely,

JOHN FREED,
Games and Purchasing Director.

M. & S. SHILLMAN, INC.,
Brooklyn, NY, June 10, 1985.

Hon. JOSEPH K. DOWLEY,
Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIR: Please be advised that we are strongly in favor of HR-2238, Suspension of Duty on Stuffed Dolls.

We look for your support of this bill now before the House. Kindly acknowledge this letter and indicate your position.

Sincerely,

IRV SHILLMAN.

STATEMENT OF HAROLD MUDRY, PRESIDENT, MIDDLE EARTH TOY CO.

In protest of the proposed bills HR-2335 and HR-2238 I wish to make your aware of the harm being done to my small American toy company, others like mine, and our suppliers. The passage of these bills will cost me over $200,000.00 forcing me to lay off my employees and ultimately end my business. Obviously, American toy manufacturers will be the hardest hit, but I wish to point out that other businesses will suffer also. In this last year our toy manufacturing business has eroded so to the imports that we have had to cut back substantially in the amount of purchases made for supplies. I've included a list of my company's vendors to help make my point. As you can see, there are many businesses feeling the unnecessary ill-effects of our unprecedented American graciousness.

I know of several instances demonstrating the unfairness of foreign influences (monopolization) on the American stuffed toy industry. I submit the following examples:

Example 1: Sam-Woo/Fable Toy Company (Korean Monopoly):

Sam-Woo, C.P.C. Box 2127, Seoul, Korea.

Owns "Yard-Good Mill" located in Korea, using Korean materials and labor.

Owns Stuffed Toy Company in Korea where they make the toy skins using materials made by their Yard-Good Mill and again Korean labor.

Owns Shipping line which is Korean labor-based.

Owns Harver Martin Company located in America where the Koreans distribute skins to American toy manfuacturers including Fable Toy Company.

Harver Martin Co., 47 West 34th Street, Suite 459, New York, N.Y. 10001.

Owns Fable Toy Company, an established American toy manufacturer bought out by the Korean company Sam-Woo.

Fable Toy Company, 79 Bogart Street, Brooklyn, N.Y. 12206.

All the way down the production line Sam-Woo has monopolized the American Toy market making it impossible for American companies to compete. Any toy company purchasing materials manufactured by any division of Sam-Woo has already made their finished product uncompetitive with that of Sam-Woo. Yet the least expensive materials in America are those supplied by foreign companies like Sam-Woo.

My company purchased toy skins from Harver Martin (Sam-Woo) for $13.00 each. Fable Toy Company (Sam-Woo) then stuffed the same toy and sold them to my customers for $14.00 each finished. It was impossible for my company to compete when we still had to add the cost of Union labor and American stuffing material. I believe this is called "Dumping".

Example 2: My company manufactures and distributes mainly large sized stuffed toys, 24" to 72". In the past this market was left alone by importing countries, but no longer. They are making the same items and selling them for much less.

I was making a large standing unicorn and selling it for $18.00 finished. The Koreans are now making the same item and selling it for $14.00.

Example 3: An American toy manufacturer recently went into a planned bankruptcy. He then purchased back his equipment, shipped it to Santa Domingo where he now makes toys using their foreign supplies and labor. He now easily under-sells my company and contributes to the extinction of the American Toy Industry.

Believe it or not, this ingenious business arrangement meets the approval of our American government under the Reagan Caribbean Policy.

If it is necessary that we import, shouldn't American industries have a fair chance at the market? I have tried in this letter, and others I've sent out, to demonstrate the impossibility of American toy companies competing with foreign toy manufacturers under the present duty-free laws. All I want is a fair chance. I believe a duty should be placed on imported toys to bring their prices equal to ours so that we

can compete on quality and workmanship not on cheap labor and material. I suggest that a committee be organized to evaluate the cost of foreign items if they were manufactured in this country. Then a duty applied justly to keep their prices competitive. Example: If an American cost is determined to be $5.00 for an item (material, labor, and overhead/no profit) and the import has a price of $3.00 then a duty of $2.00 should be applied. This is my suggestion but the fact is that something has to be done and soon.

I have sent out numerous letters and spoken on the phone with many government representatives. No one understands how this situation has happened and no one can help. Yet I discover now that bills H.R. 2335 and H.R. 2238 are up for approval to lengthen the time allowing these imports to enter America tax-free. With passage of these bills my business and others like mine will inevitably fail. We cannot afford to lose the American Toy Manufacturers. We will be losing many other businesses with them and also many jobs, which seem to be hard to come by in this country. The toy manufacturing industry employs many un-skilled laborers. It's a real shame to put these people out of work to support foreign labor. It's unnecessary and unfair.

I plead with you to vote NO to Bills H.R. 2335 and H.R. 2238.

LIST OF SUPPLIERS

Eyes: Mahler Enterprises, Inc., 5620 Dewey Street, Hollywood, FL. 33023.
Plastic bags: Penninsular Paper Co., 5101 East Hanna Ave., Tampa, FL. 33610.
Styrene: Soule Company, 3015 North 36th Street, Tampa, FL. 33605.
Cotton: Essex Fibre Mills, P.O. Box #95, Lyndhurst, NJ. 07071.
Yard goods: Borg Textile, P.O. Box 697, Roesville, GA. 30741. Collins & Aikman Corp., 410 Jericho Turnpike, Jericho, L.I., NY. 11753.
Ribbon: Royal Mills, Inc., 29-76 Northern Blvd., Long Island City, NY. 11101.
Pom-poms: Florida Supply House, P.O. Box 847, Bradenton, FL. 33506.
Sewing mach servicing: Sewing Machine Exchange, 1640 9th Ave. No., St. Petersburg, FL. 33713.
Stuffing mach repair: Industrial Machine Works, Inc., 2421 4th Ave., Tampa, FL. 33605.

New York, NY, June 27, 1985.

JOSEPH K. DOWLEY, Esq.,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: On behalf of Russ Berrie and Co., Inc., of 111 Bauer Drive, Oakland, N.J. 04736, and pursuant to the request for written testimony of May 16, 1985, from the Honorable Sam M. Gibbons, Chairman of the Subcommittee on Trade, Committee of Ways and Means, we hereby present below, testimony urging the Subcommittee on Trade to report favorably on the passage of H.R. 2238 and H.R. 2335.

Russ Berrie and Co., Inc. is a publicly held company whose stock is traded on the New York Stock Exchange. It was founded by Mr. Russ Berrie as a one man company a little more than twenty years ago. Today the company employs more than 1,400 people in the United States and has sales of $200,000,000. We enclose herewith a copy of "The Russ Story" which explains the Russ Berrie philosophy and describes the phenomenal growth of the Russ Berrie Company.

In addition, we enclose a copy of the 1985/86 "Plush 'N Stuff" catalog which illustrates just some of the more than 3,500 different items which Russ Berrie and Co., Inc. sells in the United States. Many of these items are stuffed animals, articles which are currently dutiable at 6.4 percent under item 737.30 of the Tariff Schedules of the United States. H.R. 2335 calls for the suspension of the duty on articles classified under item 737.30 of the Tariff Schedules, for a period of five years beginning January 1, 1986. We support this bill and urge its passage by the Congress.

In addition Russ Berrie imports and sells many stuffed dolls (shown on pages 28-33 of the catalog) which are currently entered free of duty under item 737.23 of the Tariff Schedules of the United States, pursuant to a duty suspension which is due to expire on December 31, 1985. H.R. 2238 proposes that the duty suspension be extended for an additional five years until December 31, 1990. Russ Berrie & Co. strongly supports this bill and urges its passage by the Congress.

It is the hope of Russ Berrie that in light of increased costs of manufacturing and doing business, by suspending the duty on stuffed animals (H.R. 2335), and continuing the suspension of duty on stuffed dolls (H.R. 2238), we may be able to continue

to offer the American consumer inexpensive, quality toys for their children's pleasure.

Most Russ Berrie items are meant to sell at the retail cost of $4 to $10. At that price, everyone can afford to buy a Russ Berrie stuffed animal or "Luv Doll".

In addition to the consumer benefiting from the passage of these bills, to our knowledge, there is no U.S. industry producing like or similar merchandise. While we are not unmindful of the objection to this legislation raised by the Middle Earth Toy Co., of Gibsonton, Fla. in its letter to the Committee of February 7, 1985, we do not believe that it will be affected by continued suspension of the duty on stuffed dolls, nor the enactment of a suspension of the duty on stuffed animals.

We understand that Middle Earth was formed at a time when the duties on stuffed dolls was already suspended. Surely, if it was able to start under those conditions, the fact that no duty was assessed was no impediment to its growth. Moreover the company's business appears to be limited to items sized 24 inches or greater and primarily for the carnival market.

These items do not compete with the Russ Berrie line and it is doubtful that many importers could import animals or dolls of this size because of the tremendous expense in shipping such large articles.

Russ Berrie only imports six animals greater in height than 24 inches and they range in wholesale price from $20 to $82.50. These prices are far in excess of the price quoted by Middle Earth and these animals are not sold to the carnival trade.

As for stuffed dolls, none of Russ Berrie's stuffed dolls are 24 inches in height and they range in price at wholesale from $2 to $10 each. These dolls do not compete with the product described by Middle Earth Toy Company.

Furthermore, as stated earlier Russ Berrie currently employs 1,400 people. It is hoped that a reduction in duty will enable sales to increase and as a result, Russ Berrie can increase employment.

The company has grown rapidly and continues to do so. Savings in costs are passed to the consumer and result in increased sales. Increased sales result in increased employment. We urge that these bills, H.R. 2238 and H.R. 2335 be passed. Their passage will be good for America and good for our overseas allies who need to employ their citizens.

We also respectfully request the opportunity to expand on these views at any hearing which the Subcommitte holds concerning these bills.

Respectfully submitted.

SERKO & SIMON,
JOEL K. SIMON,
Counsel for Russ Berrie & Co., Inc.

[Attachments have been retained in the committee files.]

SCG TOY CO.,
Overland Park, KS, June 14, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: Relative to the hearings on Tariff and Trade Bills H.R. 2238 and H.R. 2335, we submit the following statement.

Our company, SCG Toy Company, is a small toy company involved with both domestic manufacturing and importing from the Orient. The ability to purchase in the Orient with limited exposure to tariffs has allowed us to grow with a market that is dominated by the larger toy companies. In many cases the imported product has allowed us to complete our line allowing growth in our domestically manufactured items..

The tariffs suggested are price increases to us. We are not so large that we can absorb these. We must eventually pass this on to our customers. Some will accept it and inflation rolls on, but others will reject it and our sales will decline.

One of the major functions of the tariff is to protect domestic manufacturers. In this case, the domestic manufacturers for stuffed animals or skins are an extremely small percent of the whole. These domestic manufacturers have filled a niche, whether it be in quality, small quantity requirements, or specialty items, that niche prevails.

As a Manufacturer in the Midwest and a Marketing group nationwide, we see the tariff dramatically affecting our progress. More importantly, we see the tariff nega-

tively affecting the masses rather than aiding them. Your assistance in pleading our case is greatly appreciated.

Sincerely,

MARSHALL WHITE, *Materials Manager.*

TONKA CORP.,
Minnetonka, MN, June 27, 1985.

Hon. SAM M. GIBBONS,
Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN GIBBONS: Representative Willis Gradison has recently introduced two bills to the House Ways and Means Trade Subcommittee. One bill, H.R. 2238, co-sponsored by representative Claudine Schneider, is an extension of an existing legislation which exempts stuffed dolls from Customs Duties. The other bill, H.R. 2335, would grant a similar exemption to stuffed animals. Tonka Corporation ("Tonka") urges your support of these bills.

Tonka is one of the largest toy companies in the United States and one of the few toy companies which still maintains a domestic manufacturing facility; presently located in El Paso, Texas. Headquartered in Minnetonka, Minnesota, Tonka employs a seasonal high of approximately 1,900 workers. Its 1984 sales totaled $139.0 million.

Like all other major U.S. toy companies, Tonka imports a substantial portion of its product line from various foreign independent contract manufacturers located, predominantly, in Hong Kong, Korea, Taiwan, and Japan. Additionally, Tonka manufactures and imports a significant portion of its traditional toy lines from a wholly-owned manufacturing facility in Juarez, Mexico. In 1984, our dependence on offshore souring of finished product is evidenced by the fact that approximately 39 percent of Tonka's net toy sales were purchased from a single Japanese contractor. In fact, of the 230 U.S. firms that were listed as toy producers in 1984, most are believed to be importers. For many of these firms, imports are believed to have accounted for the vast majority of the total toy sales.

Enactment of the bills sponsored by Congressman Gradison would benefit not only the United States toy companies and their customers, but also the underdeveloped nations wherein a significant portion of the subject toy products or component materials are manufactured. As there is no significant domestic employment in this industry, tariff protection is unnecessary.

Tonka, like the bulk of the U.S. toy industry, has found imports to be critical to its continued success and, regardless of Customs status, will continue to source some of its finished products or components offshore in order to maintain its competitive pricing policies. As a result, the industry, as a whole, has benefited from a long-term rationalization of resources as U.S. toy companies have turned to foreign suppliers for these products where it has been cost effective to do so. Imports have clearly enhanced the competitiveness of the U.S. toy industry, enabling it to retain its status as a world-class competitor.

Tonka was the last of the major toy companies to manufacture a significant portion of its finished product domestically, however, in order to maintain its price points in the highly competitive toy industry, our reliance on offshore sourcing of product has dramatically increased over the last five years. The competitive marketplace of the toy industry compels an increased dependence by Tonka and others on the lower cost of production available through the use of foreign manufacturers. As this need for offshore sourcing is unlikely to be reversed in the foreseeable future, any legislatiion which imposes burdens upon the importation of finished product or components will damage both the domestic and worldwide competitiveness of the U.S. toy industry.

For the foregoing reasons, Tonka respectfully requests that you support H.R. 2238 and H.R. 2335.

Sincerely,

JOSEPH M. JOYCE,
Secretary and General Counsel.

TOY MANUFACTURERS OF AMERICA,
New York, NY, June 18, 1985.

JOSEPH K. DOWLEY
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: This letter in support of H.R. 2238 and H.R. 2335 is in response to the request for comments contained in the Committee's press release dated May 16, 1985. The Toy Manufacturers of America (TMA) was founded in 1916 and represents 250 American toy manufacturers, who are responsible for 90 percent of all toy sales in the United States. TMA advocates the enactment of H.R. 2238, which proposes to extend for five years the existing suspensions of duty on stuffed dolls (with or without clothing) and doll skins for stuffed dolls, stuffed or filled toy figures of inanimate objects not having a spring mechanism, and skins for toy figures of animate and inanimate objects and their skins. Additionally, we support H.R. 2235, which would temporarily suspend the duty on certain stuffed toy figures on animate objects (except dolls) not having a spring mechanism until December 31, 1990.

Duty-free treatment of these items would allow the United States toy industry to preserve and expand domestic production and employment while lowering the costs of stuffed dolls and toy figures to the American consumer. In addition, because no domestic companies competitively produce stuffed dolls, toy figures and skins thereof, the duty-free importation of these items causes no harm to United States toy manufacturers.

TMA believes the duty-free entry of stuffed dolls, toy figures and their skins will greatly benefit the integrated toy industry and the U.S. economy. The manufacture of stuffed dolls and toy figures is labor intensive and involves a great variety of styles and patterns required to produce a full line of items. For these reasons the domestic segment of the toy industry concentrates on the larger, higher quality stuffed dolls and toy figures with imported goods supplying the remainder of the domestic market. The United States toy industry's reliance on imported products was acknowledged by the International Trade Commission, in its report on Toys, Games and Wheel Goods (USITC Pub. No. 841. Control No. 7-5-27, March 1983), in which the ITC found that:

"There are some small firms devoted solely to the production of certain types of toys, but most of the major producers manufacture a wide variety of toys, games, and children's vehicles. In addition, *most domestic producers, including all the major firms,* import to some extent, ranging from the importation of certain lines or parts to significant investment in foreign production facilities for supplying both the United States and foreign market." (At 87) (emphasis added)

This decision to import from developing countries is based on the commercial assessment by United States toy producers of labor and freight costs involved in making and shipping toys:

"As labor costs provide a disincentive for manufacturers to produce high-labor-component toys domestically, transportation costs provide an incentive to produce larger toys in the United States. Domestic production is weighted toward larger nonmechanized toys of all types, particularly wooden and steel toys. There is also a trend in the production of stuffed toys having a spring mechanism and filled toys to have the cutting and sewing done in foreign facilities and the stuffing or filling and finishing done in the United States. In this manner, the domestic manufacturer can take advantage of the lower labor costs abroad in producing the parts requiring the highest labor input, while avoiding much of the transportation cost penalty by shipping toy skins instead of finished figures." (At 90)

Therefore, imports complement the offerings domestic toy manufacturers can provide the American stuffed doll and toy figure market rather than compete with items manufactured in the United States.

TMA member companies have imported stuffed dolls and toy figures and their skins to utilize their capital, technology, and labor efficiently and they employ large numbers of domestic workers in the development, production, marketing and selling of these items. The imposition of duties on stuffed dolls and toy figures would decrease their sales and the number of U.S. workers employed in these importations because the toy industry would have to devote a subetantial amount of its limited capital resources towards duty payments for these items.

The payment of duties for stuffed dolls, toy figures and their skins would have to be passed on the American family in the form of higher priced dolls. Furthermore, since these imports supply the needs of the lower end of the toy market, American families which can least afford to buy higher priced toys would be forced to decide

whether to pay the duties in the form of higher priced products or to forego their doll and stuffed toy figure purchases for their children.

TMA urges passage of H.R. 2335 and H.R. 2338, which will benefit our employees, the American consumer and the United States economy. The lack of a domestic industry manufacturing stuffed dolls, toy figures and their skins makes it absolutely necessary for our members to source these products from abroad. The imposition of import duties will not lead to the creation of such an industry in the United States, but will simply increase the cost of this merchandise to consumers. Thus, duty-free importations of the goods provided for in this legislation would allow our members to maintain and expand their domestic sales and employment while at the same time keeping lower prices on such items for our American consumers.

The TMA recently conducted a survey of our membership to determine the position we should take on this issue. The response was overwhelming in favor of the presentation I am making. The few negative responses were not from manufacturers or importers of these goods, but from members philosophically opoposed to low duty imports of any goods.

Respectively submitted.

DOUGLAS THOMSON, *President.*

TRUDY CORP.,
Norwalk, CT, June 25, 1985.

Hon. SAM M. GIBBONS,
Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN GIBBONS: Representative Willis Gradison has recently introduced two bills to the House Ways and Means Trade Subcommittee. One bill, H.R. 2238, co-sponsored by Representative Claudine Schneider, is an extension of existing legislation which exempts stuffed dolls from customs duties. The other bill, H.R. 2335, would grant a similar exemption to stuffed animals. Trudy Corporation urges your support of these bills.

Trudy Corporation is one of the few remaining stuffed toy companies in the United States which relies primarily on domestic manufacturing to supply its markets. Headquartered in Norwalk, Connecticut, Trudy employs approximately 100 workers. Its 1984 sales totaled $6 million.

We have just completed a new 54,000 square foot manufacturing facility in South Norwalk's Enterprise Zone. We are the only domestic stuffed toy manufacturing company to build a new facility from scratch in the past ten years with the intent of maintaining the majority of our production in America. Most of our smaller competitors have either folded or gone off shore with their production. Trudy, on the other hand, has added over 65 jobs to the Norwalk area in the past four years.

Nevertheless, in order to satisfy certain of our customer's needs, 20 percent of our production must come off shore. Being the number one supplier of stuffed toys as premiums to U.S. Corporations, we supply our customers' short needs domestically against their long term programs from overseas. This balance of domestic and offshore production has enabled our company to grow six-fold in the past five years. Accordingly, this is to voice our company's support for House bill number H.R. 2238 co-sponsored by Congresswoman Claudine Schneider and Congressman Willis D. Gradison. This bill essentially extends the present duty exemptions on stuffed toys and dolls of inanimate objects as well as skins.

Enactment of the bill sponsored by Congressman Gradison would enhance the competitiveness of not just us but other U.S. toy companies. It would also benefit U.S. consumers particularly given the relatively high most-favored-nation (MFN) rates of duty applicable to some of the items.

Enactment of the above bills, while clearly serving U.S. economic interests, would also be consistent with other objectives of the U.S. government. While obviously assisting the more developed Orient manufacturers, the bills would not undermine any redistribution of benefits to lesser developed countries. It is highly likely that toy production will continue to grow in countries at many different levels of development regardless of the dutiable status of these countries.

For example, to supplement our U.S. manufacturing, we employ through an independent contractor 300 sewers and laborers in Haiti. As our company has grown, we have added over 200 jobs to our Haiti operation without any cannibalization from Orient imports.

For the foregoing reasons, Trudy Corporation respectfully requests that you support H.R. No. 2238 and H.R. No. 2335.

Sincerely,

WILLIAM W. BURNHAM, *President.*

VICMA, INC.,
Dallas, TX, June 27, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: Representative Willis Gradison has recently introduced two bills to the House Ways and Means Trade Subcommittee. One bill, HR 2238, cosponsored by Representative Claudine Schneider, is an extension of existing legislation which exempts stuffed dolls from customs duties. The other bill, HR 2335, would grant a similar exemption to stuffed animals. Vicma urges your suppprt of these bills.

Vicma is a rapidly growing toy company in the United States. Headquartered in Dallas, Texas, Vicma employes approximately 10 workers. Its 1984 sales totaled 4.5 million.

Like several other major U.S. toy companies, Vicma imports 100% of its product line. In fact, of the 230 U.S. firms that were listed as toy producers in 1984, most are believed to be importers. For many of these firms, imports are believed to have accounted for the vast majority of their total toy sales.

Enactment of the bills sponsored by Congressman Gradison would benefit both United States toy companies and United States consumers. As there is no significant employment is this industry, tariff protection is unnecessary.

The U.S. toy industry has found imports to be critical to its continued success. The industry has benefitted from a long-term rationalization of resources as U.S. toy companies have turned to foreign suppliers for those products where it has been cost-effective to do so. Imports clearly have enhanced the competitiveness of the U.S. toy industry, enabling it to retain its status as a world-class competitor.

For the foregoing reasons, Vicma respectfully requests that you support HR 2238 and HR 2335.

Yours very truly,

KAREN SCHUMACHER, *President.*

WEDGES/LEDGES OF CALIFORNIA, INC.,
Redondo Beach, CA, June 24, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington DC.

DEAR MR. DOWLEY: I am writing as President of Wedges/Ledges Incorporated, a California Corporation engaged in the manufacture and sale of redemption equipment. Our company sells and operates our product in many amusement parks as well as smaller, family owned, businesses like Pizza Parlors and neighborhood family entertainment centers.

It has come to our attention that there is a possibility of a duty being placed on stuffed animals and the "skins" which are used in the production of such animals. Our company strongly urges you not to impose such a duty as it would raise the cost of the present merchandise and seriously detriment the structure of our business. The Amusement Redemption Industry is low cost entertainment appealing primarily to youngsters and the less affluent of cur population. Such a duty would be a tax on those who are less able to afford such a levy.

Thank you very much for your consideration in this matter.

Cordially,

STEPHEN P. SHOEMAKER, Jr., *President.*

H.R. 2240

To amend the Tariff Schedules of the United States to provide for a lower rate of duty for certain fish netting and fish nets

U.S. International Trade Commission

SECTION-BY-SECTION ANALYSIS

H.R. 2240,[1] if enacted, would amend the Tariff Schedules of the United States (TSUS) to lower the column 1 [2] rate of duty for fish netting and fishig nets of textile materials other than of vegetable fibers, classified under TSUS item 355.45, from the present rate of 12 cents per pound plus 24.8 percent ad valorem to 17 percent ad valorem. The latter rate is equivalent to the final staged reduction negotiated in the Tokyo Round of the Multilateral Trade Negotiations (MTN) to be effective on January 1, 1989.

BACKGROUND AND JUSTIFICATION

Description and uses.—Fish netting is usually referred to by fishermen as "webbing" to distinguish it from rigged nets which are ready to be used in actual fishing operations. Most fish netting produced in the United States is made primarily of yarn or twine of manmade fibers, knitted or knotted together by machine, forming piece goods of uniform meshes. The size of the twine and of the mesh depends upon the particular use for which the netting is intended. For example, nets of fine twine and small meshes are used to catch smaller fish.

The construction of fishing nets involves the cutting and piecing together of netting material and the attachment of floats, sinkers, and ropes. There are at least three important categories of fishing nets—trawl, seine, and gill. Trawl nets are used to catch those species of fish living on or very near the sea bottom, such as shrimp and flounder. These nets are large and bag shaped, and are towed along the bottom of the sea by a vessel. As the net is drawn forward, pressure of the water against the boards attached to each side of the mouth acts to keep the net open and thus permit the fish to be swept in. Seine nets are large and are usually supported by floats at the water's surface and weighted at the bottom. These nets are cast into a cirle around a school of fish (such as tuna and herring) by the fishing vessel. The net is closed, entrapping the fish when the purse line, which runs through rings attached by rope bridles at varying intervals to the lead line, is pulled. With the seine completely closed, the net is raised onto the vessel's deck by a hoist which is attached to the lead line of the net. Gill nets are designed to catch fish by the method known as gilling, as opposed to the entrapping methods discused above. Such nets are designed so that the mesh is of sufficient size to admit only the head of the fish. When the fish swim into the net, the net slips under the back of the gills, and when the fish attempt to escape they become entangled in the mesh. Gill nets are usually staked or anchored in place, although in some areas drift nets are used. The latter are allowed to drift from the stern of the boat, after being rigged with cork line and set on the water's surface. The nets within these three classes (trawl, seine, and gill) differ greatly, depending on the locality and the type of fish to be taken. Different

---

[1] A companion bill, S. 438, 99th Congress, is currently pending in the Senate Finance Committee.

[2] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yuogoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

types of vesels are also used. Nets used in commercial fishing vary in length and may be as long as 1,800 feet.

Sponsor's justification.—According to one of the sponsors of the companion bill in the Senate, a lower rate of duty on imported manmade-fiber fish netting and fishing nets would greatly benefit commercial fishermen who use such netting or nets in their operations. Since netting is an important and expensive component of any fishing operation, the passage of this bill woud help domestic fishermen to better compete with foreign fishermen and gain a larger share of the market. The sponsor also stated that:

> This bill will help American fishermen reduce the over $4.1 billion fisheries trade deficit. It helps offset the mounting financial pressures on U.S. commercial fishermen. It reduces the inequity created when U.S. fishermen pay higher tariffs than their foreign counterparts. And it allows U.S. fishermen access to a quality and variety of nets not available in the United States. U.S. fishermen import roughly a third of their nets each year despite the high rate of duty.[3]

Supporters of the bill believe that the gradual reduction to 17 percent, currently being implemented in annual stages until 1989, will not provide the help needed and, in fact, will adversely affect 165,000 commercial fishermen from all parts of the country. In their opinion, the reduction to 17 percent ad valorem should take place as soon as possible.

PRIOR INVESTIGATIONS

On April 18, 1972, in investigation No AA1921-85, the Commission determined that an industry in the United States was being injured within the meaning of the Antidumping Act, 1921, by reason of imports of fish netting of manmade fibers from Japan, determined by the Secretary of the Treasury to be sold or likely to be sold at less than fair value (LTFV).[4] As a result of this determination, the Department of the Treasury issued a dumping order applicable to the merchandise on June 9, 1972.

On July 28, 1981 the Commission received a request to review its affirmative determination filed on behalf of nine Seattle, Washington/Portland, Oregon area importers of salmon gill fish netting from Japan. The request, which was filed under section 751(b) of the Tariff Act of 1930, asked that the Commission retroactively modify its injury determination to exclude double knot salmon gill fish netting, in light of changed circumstances. Importers alleged that significant production of salmon gill fish netting in the United States had ceased by 1974. On October 14, 1981 the Commission voted to institute investigation No. 751-TA-5 to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, if the antidumping order regarding fish netting of manmade fibers from Japan were to be modified or revoked with respect to salmon gill fish netting of manmade fibers provided for in item 355.45 of the TSUS. On March 31, 1982 the Commission determined that the establishment of an industry in the United States would be materially retarded by reason of imports of salmon gill fish netting of manmade fibers from Japan covered by antidumping order T.D. 72-158 if the order were to be modified or revoked.[5]

On November 24, 1982 the Commission requested comments regarding the institution of a new section 751(b) review investigation on salmon gill fish netting. On the basis of the comments filed, the Commission voted to institute investigation No. 751-TA-7 on January 25, 1983, and on May 24, 1983 the Commission determined that an industry in the United States would be materially injured by reason of imports of salmon gill fish netting of manmade fibers from Japan covered by antidumping order T.D. 72-158 if the order were to be modified or revoked.[6]

COMPARISON WITH PRESENT LAW

Tariff treatment under the TSUS.—Fish netting and fishing nets of textile materials other than vegetable fibers are classifiable under TSUS item 355.45. the current

---

[3] 131 Cong. Rec. S1328 (daily ed. February 7, 1985) (remarks of Senator Mitchell).

[4] *Fish Nets and Netting of Manmade Fibers from Japan . . .*, investigation No. AA1921-85, TC Pub. 477 (1972).

[5] *Salmon Gill Fish Netting of Manmade Fibers from Japan . . .*, investigation No. 751-TA-5, ITC Pub. 1234 (1982).

[6] *Salmon Gill Fish Netting of Manmade Fibers from Japan . . .*, investigation No. 751-TA-7, ITC Pub. 1387 (1983).

column 1 rate of duty for this item is 12 cents per pound plus 24.8 percent ad valorem. The 1985 ad valorem equivalent (AVE) rate of duty, based on 1984 imports, is 28.6 percent. The column 2 rate of duty [7] is 82 percent ad valorem. No special rate is provided for least developed developing countries (LDDCs).[8] Articles imported under item 355.45 are not eligible for duty-free entry under the Generalized System of Preferences (GSP).[9] In most cases imports under this item are not eligible for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).[10] The staged duty reductions negotiated for TSUS item 355.45 under the MTN are shown in the following tabulation:

Year	Rates of duty effective with respect to articles entered on or after January 1—
Pre-MTN[1]	25¢ per lb. + 32.5% ad val.
1980	25¢ per lb. + 32.5% ad val.
1981	25¢ per lb. + 32.5% ad val.
1982	21¢/lb. + 30.6% ad val.
1983	18¢/lb. + 28.6% ad val.
1984	15¢/lb. + 26.7% ad val.
1985	12¢/lb. + 24.8% ad val.
1986	9¢/lb. + 22.8% ad val.
1987	6¢/lb. + 20.9% ad val.
1988	3¢/lb. + 18.9% ad val.
1989	17¢ ad val.

[1] Rate effective prior to January 1, 1980.

Concessions granted on most textile products are conditional. Section 504 of the Trade Agreements Act of 1979 would restore tariffs on textile products, including fish netting and fishing nets, subject to the Multifiber Arrangement (MFA), to the levels of January 1, 1975 if the MFA does not continue in effect or a suitable substitute arrangement is not implemented during the period of the staged tariff reductions. For item 355.45 the staging period runs until January 1, 1989.

Two bills on fish netting and fishing nets of manmade fibers—H.R. 4002 and S. 1565—were introduced in the House of Representatives and the Senate on June 23, 1981 and July 31, 1981, respectively. Both bills provided for an immediate reduction of the duty on fish netting and fishing nets classified in TSUS item 355.45 to the final staged rate of 17 percent ad valorem. H.R. 4002 was incorporated into H.R. 6867. This legislation was passed by the House but was not approved by the Senate Finance Committee (September 28, 1982). S. 1565 was incorporated into H.R. 4566 (the 1982 Omnibus Tariff Act) which became Public Law 97-446 (January 12, 1983). However, the provision concerning the duty reduction for fish netting was deleted during the conference on H.R. 4566.

Two bills on fish netting and fishing nets of manmade fibers—H.R. 2042 and S. 759—were introduced in the House of Representatives and the Senate on March 9, 1983 and March 10, 1983, respectively. These bills also would have lowered the duty

[7] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[8] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[9] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[10] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

on these products to 17 percent. However, the proposals were not enacted into law.[11]

Fish netting and fishing nets purchased in foreign ports by fishing vessels documented under the laws of the United States to engage in the foreign and coasting trade are liable upon entry into the United States for an ad valorem duty of 50 percent (19 U.S.C. 1466(a)).[12] However, on meeting one of three statutory criteria, the owner or master of the vessel may obtain a remission of the duties paid (19 U.S.C. 1466(d)).

Tariff treatment under the proposed Harmonized System (HS).—Fish netting and fishing nets would be dutiable as follows upon the implementation of the Harmonized System:[13]

Heading	Brief description	Rate of duty	
		Col. 1	Col. 2
5608	Knotted netting of twine, cordage or rope; made-up fishing nets and other made-up nets, of textiles materials:		
	Of man-made textiles materials:		
5608.11.00	Made-up fishing nets	17 percent	82 percent.
5608.19	Other:		
5608.19.10	Fish netting	17 percent	82 percent.
5808.19.20	Other:		
5608.90.20	Other	10 percent	90 percent.
5608.90	Other:		
5608.90.10	Fish netting and fishing nets	17 percent	82 percent.
	Other:		
5608.90.20	Of cotton	16 percent	90 percent.
5608.90.30	Other	10 percent	90 percent.

STRUCTURE OF THE DOMESTIC INDUSTRY

There are approximately 12 firms, located in 10 states, producing fish netting and fishing nets in the United States. Some of these firms have fewer than 10 employees while others have about 100. Total employment in the industry is estimated to be approximately 500 persons. In addition, numerous individual fishermen and small net shop operators purchase netting of both foreign and domestic origin and assemble their own nets.

Five of the industry's largest companies, which account for approximately 75 percent of total estimated domestic production, are—

Nylon Net Company, Memphis, Tennessee

FNT Industries, Inc., Minominee, Michigan

Bayside Net and Twine Co., Inc., Brownsville, Texas

Hagin Firth & Sons Co., Willow Grove, Pennsylvania

Blue Mountain Industries, Blue Mountain, Alabama

Domestic producers have stated that they have both the technical capability and manufacturing capacity to produce the full range of fish netting and fishing nets

[11] There have been other recent legislative proposals concerning the tariff status of fish netting. For example: H.R. 2048, 95th Cong., 1st Sess. (January 19, 1977); H.R. 1211, 96th Cong., 1st Sess. (January 22, 1979); H.R. 2485, 96th Cong., 1st Sess., (February 28, 1979); section 1622(f) (amending section 466 of the Tariff Act of 1930) of H.R. 111 (Panama Canal Act of 1979), 96th Cong., 1st Sess. [See H. REP, NO. 96–98 (Pt. I) 125–127 (April 23, 1979)]; H.R. 6571 (amending section 466 of the Tariff Act of 1930), 96th Cong., 2d Sess. (February 22, 1980) [enacted as section 115, Pub. L. No. 96–609; effective retroactively from October 1, 1979, through January 1, 1982].

[12] "Fish nets and netting are considered vessel equipment and not vessel supplies." 19 CFR 4.15(a) (Fn. 28) (1984). Thus, such purchases in a foreign port are subject to duty under section 466 of the Tariff Act of 1930 (19 U.S.C. 1466).

[13] Source: Trade Policy Staff Committee, Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System (September 1984).

imported into the United States, although admittedly certain netting is not under actual production.

DOMESTIC PRODUCTION

Estimated domestic shipments of fish netting and fishing nets by the dozen U.S. firms fluctuated during 1980–84, declining from 4.4 million pounds in 1980 to 4.3 million in 1982, increasing to 4.8 million in 1983, and dropping back to 4.2 million pounds in 1984 (table 1).

The increase in demand for domestically produced fish netting and fishing nets in 1983 was due primarily to more fish being caught and the purchase of new netting and replacement nets for worn-out nets that were not replaced when the fishing cycle was in a downswing. The decline in 1984 is a result of many fishermen having an adequate inventory of nets and netting after making large purchases the preceding year.

U.S. IMPORTS

With the exception of a decline in 1981, imports of fish netting and fishing nets of textile materials, other than vegetable fibers, increased slowly from 2.0 million pounds (valued at $7.2 million) in 1980, to 2.2 million pounds (valued $6.8 million) in 1984. Manmade-fiber fish netting and fishing nets accounted for virtually all of such imports. Japan has been the principal source of these imports, supplying about 35 percent of the quantity and about 57 percent of the value of such imports in 1984 (table 2). However, Taiwan had been an increasingly important source in recent years, accounting for about 32 percent of the quantity and about 23 percent of the value in 1984.

The market penetration of imports under TSUS item 355.45 increased form 33 percent of the apparent domestic consumption in 1980 to 35 percent in 1984 (table 1).

Leading importers of fish netting and fishing nets classifiable under TSUS item 355.45 are Seattle Marine and Fishing Supply Company, Seattle, Washington, John Redden Net Company, Inc., Bellingham, Washington; Lummi Fishing Supplies, Inc., Bellingham, Washington; Nylon Net Company, Memphis, Tennessee; Jovanovich Supply Company, Seattle, Washington; and Trans Pacific Trading Inc., Seattle, Washington.

U.S. EXPORTS

Exports of fish netting and fishing nets, virtually allof which were of manmade fibers, were 271,000 pounds, valued at $774,000 in 1980 and fluctuated during 1981, 1982 and 1983 before declining to 212,000 pounds, valued at $744,000 in 1984 (table 3). Panama and Canada were the primary markets for these exports, together accounting for 56 percent of the quantity and 45 percent of the value in 1984.

APPARENT U.S. CONSUMPTION

Apparent U.S. consumption of fish netting and fishing nets classifiable under TSUS item 355.45 fluctuated during 1980–84, reaching a low of 5.7 million pounds in 1981 and a high of 6.7 million pounds in 1983 (table 1). Since 1981 an upswing in the fish-catching cycle, which historically occurs every 3 to 5 years has taken place. With the increase in the number of fish being caught in 1983, more netting was consumed, and many fishermen who had temporarily retired or were working only part/time returned to the business. The increase in apparent consumption during 1983 was caused by increases in both domestic shipments and U.S. imports whereas the decline in 1984 was the result of a decrease in domestic shipments.[14]

EFFECT ON REVENUE

The following tabulation, based on import data for 1984, shows the potential annual revenue, in dollars, if (1) the rate of duty were reduced in stages, or (2) the rate were reduced immediately to 17 percent ad valorem.

---

[14] There was a small increase in U.S. imports during 1984.

Year	Staged reduction pursuant to MTN	Immediate reduction to 17 percent ad valorem	Difference
1985	1,943,896	1,155,490	788,406
1986	1,743,396	1,155,490	587,906
1987	1,549,693	1,155,490	394,203
1988	1,349,193	1,155,490	193,703
1989	1,155,490	1,155,490	0

TECHNICAL COMMENTS

If the Committee desires to retain the President's authority under section 125 of the Trade Act of 1974 to withdraw, suspend, or modify the application of trade agreement obligations of benefit to a foreign country or instrumentality, with respect to TSUS item 355.45, the following additional language is suggested.[15]

> (b) For purpose of the Trade Act of 1974, the amendments made by this section shall be considered to be trade agreement obligations entered into and proclaimed under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.

Thus, the President could terminate, suspend, or modify this amendment to the TSUS, pursuant to section 125, if a country or instrumentality benefiting from the immediate reduction in the staged rate terminates, suspends, or withdraws any trade agreement obligation of benefit to the United States without providing adequate compensation.

The language in lines 3 and 4 of the bill should be deleted and the following inserted in lieu thereof:

> That the Tariff Schedules of the United States (19 U.S.C. 1202) is amended to strike "12¢ per lb. + 24.8% ad val." from the column 1 duty rate column for tariff item 355.45 and to insert "17% ad val." in lieu thereof.

The comma following the word "warehouse" in line 1 on page 2 the bill should be deleted and a comma added following the word "consumption". The effective date should be changed to read "on or after the fifteenth day following the date of enactment of this Act".

TABLE 1.—ESTIMATED U.S. CONSUMPTION OF FISH NETTING AND FISHING NETS OF TEXTILE MATERIALS, OTHER THAN VEGETABLE FIBERS (TSUS ITEM 355.45) FOR THE PERIOD 1980–84

Period	Producers' shipments [1]	Exports [2]	Imports	Apparent consumption	Ratio (percent) of imports to consumption
	Quantity (1,000 pounds)				
1980	4,419	271	2,047	6,195	33.0
1981	4,365	359	1,662	5,668	29.3
1982	4,258	403	2,064	5,919	34.9
1983	4,830	246	2,111	6,695	31.5
1984	4,200	212	2,152	6,140	35.0
	Value (1,000 dollars)				
1980	14,301	774	7,237	20,764	34.9
1981	14,541	834	8,018	21,725	36.9
1982	14,200	1,086	7,561	20,675	36.6
1983	15,600	706	7,310	22,204	32.9
1984	14,300	744	6,797	20,353	33.4

[1] Includes netting of manmade fibers only.
[2] Includes netting of all types of textile materials.

Source: Production data for 1980–84 estimated from data obtained by the American Netting Manufacturers Organization. Imports and exports compiled from official statistics of the U.S. Department of Commerce.

[15] See, Pub. L. No. 96–609, sec. 117(d); effective December 28, 1980, for similar language.

TABLE 2.—U.S. IMPORTS FOR CONSUMPTION OF FISH NETTING AND FISHING NETS, OF TEXTILES MATERIALS, OTHER THAN VEGETABLE FIBERS, (TSUS ITEM 355.45) BY PRINCIPAL SOURCES. 1980–84

Country	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Japan	1,127	848	762	769	752
Taiwan	122	282	521	728	687
Korea	298	182	257	210	302
Portugal	103	61	96	98	232
Canada	127	144	144	52	79
All other	270	145	284	254	100
Total	2,047	1,662	2,064	2,111	2,152
	Value (1,000 dollars)				
Japan	4,750	3,966	4,073	4,154	3,871
Taiwan	329	844	1,425	1,793	1,558
Korea	649	428	567	367	549
Portugal	244	143	207	171	341
Canada	365	430	514	143	196
All other	900	2,207	775	682	282
Total	7,237	8,018	7,561	7,310	6,797

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 3.—U.S. EXPORTS OF DOMESTIC MERCHANDISE OF FISH NETTING AND FISHING NETS OF TEXTILE MATERIALS,[1] BY PRINCIPAL SOURCES, 1980–84

Country	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Panama	0	73	(2)	(2)	69
Canada	66	103	53	81	50
Pakistan	0	0	0	0	14
Guatemala	0	1	13	7	16
Chile	0	2	6	9	9
All other	205	180	331	149	54
Total	271	359	403	246	212
	Value (1,000 pounds)				
Panama	0	196	3	1	197
Canada	126	178	166	247	138
Pakistan	0	0	0	0	60
Guatemala	0	2	30	22	57
Chile	0	17	27	83	56
All other	648	441	860	353	236
Total	774	834	1,086	706	744

[1] Virtually all exports consist of manmade fibers.
[2] Less than 500 pounds.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Statement of the American Cordage & Twine Manufacturers

SUMMARY

1. H.R. 2240 would immediately cut the tariff on man-made fiber fish netting from the present ad valorem equivalent of 28.5 percent to 17 percent ad valorem; thus overturning the previously-negotiated staged reductions agreed to in the 1979 Tokyo Round (MTN) which will reach 17 percent on January 1, 1989, after an industry-adjustment period where the duty is reduced gradually on an annual basis.

2. The U.S. fish netting industry is already in precarious economic condition. Imports have taken over 33.6 percent of the U.S. market. Sales and profits have declined from 1983 to 1984. The tariff rates are decreasing yearly.

3. Therefore to chop the duty in one fell swoop would be economically disastrous. In 1984 there were 14 manufacturers in the industry; today there are only 11. Only if the staged reductions are followed will domestic manufacturers have a fighting chance, through new capital investment, new product development and rigorous cost-cutting, of survival against imports from Japan, Taiwan, Korea and other countries.

4. U.S. manufacturers accepted the MTN staged reduction in good faith and are doing their best to adjust through developing new materials and techniques. If the staging is not tampered with, they stand a good chance of accomplishing this.

5. This legislation is highly controversial, not only because it would destroy an American industry, but Congress would be bypassing the very system it created through the various Trade Acts to liberalize trade by reducing duties on a quid pro quo basis so that U.S. products would have reciprocal access to foreign markets; and at the same time, through staging, allow American industry time to adjust to heavy tariff cuts.

STATEMENT

The American Cordage, and Twine Manufacturers (ACTM) is composed of fifteen regular and associate members. Various members of ACTM account for approximately 80 percent of all fish netting manufactured in the United States. ACTM members are located throughout the United States (See Appendix 1).

H.R. 2240 would immediately reduce the tariff on man-made fiber fish nets and netting (virtually the only type of commercial fish netting used today) from the present ad valorem equivalent of 28.5 percent to 17 percent ad valorem. This would be an immediate 40 percent reduction. A 55 percent reduction in the tariff was negotiated in the recent "Tokyo Round" of Multilateral Trade Negotiations. This reduction, like virtually all negotiated tariff reductions, is staged over eight years; for fish nets and netting the staging started in January 1, 1982 and the final reduction to 17 percent ad valorem is scheduled to go into effect on January 1, 1989. Three of the staged reductions have already occurred.

Negotiated tariff reductions are staged over a number of years to allow United States industries affected by the loss of tariff protection an opportunity to adjust gradually to the increase in foreign competition. The United States fish netting industry has been particularly hard hit by import competition, and thus strongly opposes the early and immediate reduction called for in H.R. 2240.

Import penetration

The domestic industry picture is bleak. Appendix II shows imports by source for the past six years and Appendix III compares imports with domestic production and consumption. For 1984 (the latest year for which figures are available) import penetration reached 33.6 percent.

Japan, South Korea and China (Taiwan), three Far East countries, have consistently accounted for more than three quarters of the imports in the years 1977–1984.

Efforts to compete with imports

Like many other manufacturers, the fish netting industry has faced a very bad economic situation over the last several years and is fighting a continuing battle for survival—first against Japanese imports and then against imports from Korea and Taiwan. We obtained an antidumping order in 1972 which was laxly enforced until Congress tightened up the law. The feeling now is that the industry has a fighting chance of survival, but will not survive if H.R. 2240 is enacted.

The United States fish netting industry has made and is making strenuous efforts to meet increasing imports within the framework of the staged tariff reductions. Without exception, the domestic manufacturers have instituted stringent cost-cutting measures until no further reductions are possible. New technology is being in-

vestigated in cooperation with U.S. fiber manufacturers to produce superior quality products which will find a ready market, both in the U.S. and abroad. Plans are currently being made by domestic manufacturers to expand into the export market.

Market expansion, technology development and implementation, however, require capital investment. Unless the staged reductions. remain, the planning, cost-cutting an investment to date will be for naught. Staged reductions were an integral component of the business planning which will shorty result in new products and markets for the domestic fishnetting manufacturers.

We understand the American fisherman have problems, but we are not the cause. We do not believe our industry should be sacrificed merely to permit some type of short term gain for U.S. fishermen when actually their problems are much deeper and broader than this narrow area. This area, minor for them, is critical for us—the survival of our industry.

Unilateral reduction of import tariffs—particularly on textile goods—is contrary to U.S. trade policy, which is to provide tariff reductions through international negotiation and not to make them on a unilateral, non-negotiated basis. H.R. 2240 contemplates a gift to Japanese and other foreign manufacturers without any compensation that would provide similar increased access to foreign markets for U.S. goods.

[Attachments have been retained in the committee files.]

AMERICAN FIBER TEXTILE, APPAREL COALITION,
Washington, DC, June 28, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: The American Fiber, Textile and Apparel Coalition (AFTAC) wishes to record its opposition to a tariff reduction bill pending before the Trade Subcommittee. Specifically, AFTAC opposed H.R. 2240, a bill which would reduce the duty on imported man-made fiber netting and nets from 28.5 percent to 17 percent ad valorem. This measure would overturn the previously negotiated staged reductions agreed to in the 1979 Tokyo Round (MTN) which will reach 17 percent on January 1, 1989.

Imports have taken over 33.6 percent of the U.S. fish netting market. An immediate reduction in the duty would be economically disastrous to the domestic industry and its suppliers. Only if the staged reductions are followed will domestic manufacturers have a chance, through new capital investment, product development and cost-cutting measures, of survival against imports. U.S. manufacturers accepted the MTN staged reduction in good faith and are currently attempting to adjust to import competition.

We appreciate the opportunity to comment on this bill and would ask that this letter be made a part of the record.

Sincerely,

G. STEWART BOSWELL, *Chairman.*

H.R. 2259

Relating to the establishment and disposition of customs districts and ports of entry, the provision of customs services on a reimbursable basis, and for other purposes.

STATEMENT OF KARL H. QUAST, CHAIRMAN, QUAST & CO., INC.

SUMMARY

I am pleased to comment on H.R. 2259, a Bill which seeks to empower the Secretary of the Treasury to establish, rearrange, and discontinue Customs Districts and Ports of Entry; and which seeks to empower the Secretary to make Customs services available at certain locations on a reimbursable basis.

I am strongly opposed to H.R. 2259 and urge you to vote against its further consideration.

As Chairman of a successful Customs House Broker and Ocean Freight Forwarder company, I am familiar with both Customs operations and regulations and their relationships to international carriers calling at our posts.

I oppose this Bill because:

it fails to establish guidelines for the determination of the volume or value of cargoes needed by a port in order for it to gain or keep Port of Entry status;

it fails to distinguish between coastal and Great Lakes ports, considering that Great Lakes ports operate for only 8.5 months per year, as opposed to 12 month operations at coastal ports, or the fact that Great Lakes ports handle low value cargoes, as opposed to coastal ports which handle high value commodities.

it fails to consider the impact of denying Port of Entry status at certain ports on steamship lines which may discontinue calling at ports lacking such Customs services;

it fails to consider the difficulty some ports may have in attaining state government cooperation in gaining "reimbursable" Customs services;

it fails to consider the economic and competitive hardships which would be imposed upon maritime industries whose viability is dependent upon vessel operations at their ports, including ports, steamship agents, Customs House Brokers and Ocean Freight Forwarders, terminal operators, warehouses, longshoremen, cartage companies, banks and others involved in international shipping.

STATEMENT

I am pleased to comment on H.R. 2259, a Bill which seeks to empower the Secretary of the Treasury to establish, rearrange, and discontinue Customs Districts and Ports of Entry within the Customs territory of the United States. The Bill also seeks to empower the Secretary of the Treasury to make Customs services available on a reimbursable basis at locations which are not included in the 175 ports designated by the Secretary as "ports of entry."

I am strongly opposed to H.R. 2259.

As Chairman of a successful corporation which deals daily with the facilitation of commercial cargoes originating in countless overseas locations, I am completely familiar with the functions and regulatory responsibilities of the Customs Bureau.

As Chairman of a licensed Customs House Broker and Ocean Freight Forwarder company, I also am intimately familiar with the ocean transportation industry and understand the relationships between the availability of Customs services and the willingness of vessels engaged in the international trades to call at certain ports.

I have several serious misgivings about H.R. 2259; elements which I believe would be detrimental to the Great Lakes in particular.

I must oppose H.R. 2259 in its entirety because it fails to provide guidelines for the establishment, rearrangement or discontinuation of any Customs District or Port of Entry. Based on the establishment of 175 Ports of Entry as the national minimum provided for in Section B of the Bill, it becomes clear that efforts may be

made to eliminate Customs services at as many as 97 of 272 ports currently holding Port of Entry designation. If such an elimination process is to be made by the Treasury Department, then criteria for elimination should be included in the Bill legalizing the change. That way the criteria may be commented on by all affected parties and can be judged on its merits, rather than be shaped solely by well-intentioned, but sometimes ill-informed, government employees acting on behalf of the Secretary.

I particularly am opposed to Section C of H.R. 2259. This section empowers the Secretary to make Customs services available on a reimbursable basis at locations other than those included in the locations designated in Section B.

In this instance, the Secretary would determine whether the volume or value of business cleared through such a location is sufficient to justify the designation of that location as a Port of Entry. Again, I believe that standards for making these determinations should be included in the Bill authorizing the action. I also believe that Great Lakes ports, which handle low value bulk cargoes (and are only open 8½ months each year), should not be forced to compete for Port of Entry designation with ports open year-around that handle high value general and containerized cargoes. Unless these differences are recognized and addressed in the Bill, Great Lakes ports—so often relegated to second class status—will surely suffer the loss of Port of Entry designation. This, unfortunately, is a justified fear. The Customs Bureau has already designed standards for this purpose. As a result, 26 ports on the Great Lakes are already in jeopardy of losing Entry status. Michigan, Pennsylvania, Wisconsin and Ohio are leading the list of losers.

Ports that have been denied Entry Status or a Customs District will be allowed to buy Customs services, according to Section C of H.R. 2259. However, these ports will first have to convince the Governor of their state to approve of the provision of Customs services on a reimbursable basis. Secondly, they will have to convince the state or any other appropriate political body to assume the responsibility for all costs associated with providing these services.

Therefore, a port deemed "too small" by the Secretary of the Treasury will not only be further disadvantaged by having to pay extra for Customs services, but it will first have the convince its state to guarantee the extra costs. Is this, I wonder, akin to having to pay a filing fee for the privilege of paying income taxes? The Governor of any state whose port is deemed too small by the Federal Government to have a Customs District or Port of Entry status would surely hesitate to provide the guarantee required by H.R. 2259.

I am concerned about the impact of the provisions of H.R. 2259 on the "small" port business community. I am doubly concerned about how the increased cost of Customs services will affect the communities' ability to compete in the market place. Specifically, I think that H.R. 2259 would adversely affect importing merchants and manufacturers, steamship lines and agents, terminal operators, Customs House Brokers, warehouses of imported cargoes, dock workers, banks and others providing shoreside or off-site support traditionally required by steamship lines.

What happens, for instance, to an an already burdened manufacturer who suddenly has to assume additional costs of Customs services when his port loses its Port of Entry status or Customs district designation? If he can't remain competitive because of these new costs, he'll have to ship into what will quickly become known as "free" ports—the 175 ports which will retain or become designated as Ports of Entry.

Clearly, the impact of H.R. 2259 would be a spiraling one.

I believe that a port which does not have Port of Entry status is far less attractive to a steamship line than is a port which can provide Port of Entry services. The carrier which would normally call at a port lacking Port of Entry designation as a result of enactment of this Bill may simply divert ao another port offering the full range of Customs services. I can easily see this happening in Pennsylvania, for example, where a ship originally calling at the Port of Erie might shift to the Port of Cleveland. This would be beneficial to the Port of Cleveland and the city, but would be very costly for the Port of Erie and its supporting industries. If a ship chooses not to alter its port of call it will be forced, at high cost, to "import" Customs officials and services each time it requires entry services. This is not a far fetched possibility, but a very probable result of enactment of H.R. 2259.

Steamship lines, which operate with daily overheads of tens of thousands of dollars, are unlikely to tolerate the operating delays and additional costs imposed on them by restrictive Customs operations. A vessel which must call a port without Port of Entry status will not repeatedly tolerate for hours or days waiting for Customs personnel to be dispatched from other locations. The company operating the

ship will soon add this newest operating restriction to the growling list which makes serving Great Lakes less and less viable. Eventually, it will no longer serve the Lakes.

It is hard to find anything redeemable about H.R. 2259. It raises important questions, but fails to answer them. It puts an unknown number of "small" ports and the companies serving them into jeopardy. It may even pit ports located within the same state against each other in their eventual quest to gain state support for purchasing reimbursable Customs services.

Based on the problems inherent in this Bill, and on the problems it will create, I strongly urge you to vote against its further consideration.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC.

Hon. SAM GIBBONS,
Rayburn H.O.B., Washington, DC.

DEAR SAM: I am writing to you about the impact of H.R. 2259, which would empower the Secretary of the Treasury to redefine Customs Ports of Entry. The Port of Erie, Pennsylvania would be adversely affected by this legislation.

The Twenty-first Congressional District of Pennsylvania includes both an underutilized Great Lakes Port and a small airport. Under the language contained in the bill, neither would qualify as a port of entry. Both, however, are vitally important to the health of the troubled economy of northwest Pennsylvania. To restrict or eliminate the ability of our local companies and industries to engage in international trade by removing the port of entry status of Erie would have an immediate and long-term negative impact on the economy of this region.

The current exchange rate imbalance, as well as other difficulties encountered in exporting U.S. goods and services, place local businesses in an extremely tenuous competitive position. Additional expenses resulting from user fees to offset the costs of operating the Customs Office or higher transportation costs incurred in using other ports, will only exacerbate these problems.

It has been estimated that one out of six jobs in the economy in northwest Pennsylvania is directly related to international trade. With district-wide unemployment at twelve percent and rising, the consequences of eliminating the port of entry status would be most harmful.

While the volume of cargo being shipped through the port of Erie has yet to reach the potential of the facility, it is very important to the regional economy. Local companies should be given the opportunity to move their goods to the international marketplace through the same port they have used for decades. The potential for further job losses is heightened if either the port of entry status is eliminated or user fees are imposed on the port of Erie. I do not believe this is the intent of either the administration or the Committee on Ways and Means.

When the Committee on Ways and Means considers H.R. 2259, I would sincerely hope the language would be altered to avoid the consequences anticipated for the port of Erie, as well as similar communities. I would be more than happy to provide you with any specific information you request on how this legislation would impact on a small port in an economically depressed area. Please feel free to contact me if this information would be useful in the consideration of this matter.

Thank you for your consideration of this letter.

Sincerely,

TOM RIDGE,
Member of Congress.

STATEMENT OF VERA PAKTOR, EXECUTIVE DIRECTOR, U.S. GREAT LAKES SHIPPING ASSOCIATION

SUMMARY

I am pleased, on behalf of the U.S. Great Lakes Shipping Association, to comment on H.R. 2259, a Bill which seeks to empower the Secretary of the Treasury to establish, rearrange, and discontinue Customs Districts and Ports of Entry, and which seeks to empower the Secretary of the Treasury to make Customs services available at certain locations on a reimbursable basis.

The U.S. Great Lakes Shipping Association membership includes steamship agents and vessel owners and operators engaged in the international Great Lakes trades. Our membership operate in all of the Great Lakes states.

We object to H.R. 2259 because it neglects to consider negative impacts on the Great Lakes and because its passage would place international Great Lakes vessel operators at a considerable disadvantage. The most blatant inequity of this Bill is that it fails to distinguish between tidewater and Great Lakes ports; it favors tidewater ports which operate year-around and handle high value commodities, as opposed to Great Lakes ports which operate 8.5 months a year and handle low value bulk cargo.

Specifically, we object to H.R. 2259 because:

it fails to establish guidelines for the determination of the volume or value of cargoes needed by a port in order for it to gain or keep Port of Entry status;

it fails to consider the impact of denying Port of Entry status at certain ports on steamship lines which may discontinue calling at ports lacking such Customs services;

it fails to consider the difficulty some ports may have in attaining state government cooperation in gaining "reimbursable" Customs services.

Finally, we object to H.R. 2259 because its passage could result in additional costs to those operating in the Great Lakes simply because the Bill does not consider the particular differences between international trade on the Great Lakes and tidewater ports. Given the fact that the Great Lakes already pay tolls fo ruse of the St. Lawrence Seaway, yet another substantial operating cost would significantly decrease the Great Lakes' competitive position with tidewate ports. Quite simply, passage of this Bill would cause serious damage to the international Great Lakes maritime industry.

STATEMENT

On behalf of the U.S. Great Lakes Shipping Association, I am pleased to submit comments on H.R. 2259. This bill seeks to empower the Secretary of the Treasury to establish, rearrange, and discontinue Customs Districts of the United States. It also seeks to empower the Secretary of the Treasury to make Customs services available on a reimbursable basis at locations which are not designated by the Secretary as "Ports of Entry."

I am commenting on behalf of the U.S. Great Lakes Shipping Association whose membership includes steamship agents, and vessel owners and operators engaged in the international Great Lakes trades. Our members operate in all of the Great Lakes states.

We object to H.R. 2259 because it neglects to consider impacts on the Great Lakes and because its passage would place international Great Lakes vessel operators at a considerable disadvantage.

We oppose H.R. 2259 in its entirety because it fails to provide guidelines for the establishment, rearrangement or discontinuation of Customs Districts or Ports of Entry. Based on the establishment of 175 Ports of Entry as the national minimum provided for in Section B of the Bill, it is clear that efforts may be made to eliminate Customs services at as many as 97 of 272 ports currently holding Port of Entry designation. If such an elimination process is to be made by the Treasury Department, then criteria for elimination should be included in the Bill legalizing the change. Doing so would provide an opportunity for the criteria to be evaluated and commented on by those parties it would affect most. It is criteria which should be made clear in the Bill rather than be shaped by well-intentioned, but sometimes ill-informed, government employees.

We are extremely opposed to Section C of H.R. 2259. This section seeks to empower the Secretary to make Customs services available on a reimbursable basis at locations other than those to be designated as Entry Ports. In this instance, the Secretary would determine whether the volume or value of business cleared through a specific port would be sufficient to justify the designation of that location as a Port of Entry. We believe that standards for making these determinations should be included in the Bill authorizing the action. We believe that Great Lakes ports, which handle low value bulk cargoes and are only open 8.5 months each year, should not be forced to compete for Port of Entry designation with ports which are open year-around and handle high value general and containerized cargoes. The Customs Bureau has already designed standards for the elimination of Ports of Entry. As a result, 26 ports on the Great Lakes are already in jeopardy of Losing Entry status. Wisconsin, Michigan, Pennsylvania and Ohio lead Great Lakes states with ports likely to lose their Port of Entry status.

According to Section C of H.R. 2259, ports denied Entry status or a Customs District will be allowed to buy Customs services. However, a port will first have to convince its Governor to approve of the provision of Customs Services on a reimbursa-

ble basis. Secondly, it will have to convince the state or other appropriate political body to assume the responsibility for all costs associated with providing these services. Therefore, a port deemed "too small" by the Secretary of the Treasury will not only be further disadvantaged by having to pay extra for Customs services, but it will first have to convince its state to guarantee the extra cost.

It is difficult to imagine how this Bill could have been written to have such negative impacts on the Great Lakes. It would increase the disadvantages the Great Lakes already have in competing with coastal ports. Those of us engaged in the international Great Lakes trades already pay millions of dollars annually for the use of the St. Lawrence Seaway, limiting our competitiveness. Accruing yet another operational cost, which is currently available at no "extra" cost, would place steamship lines serving the Great Lakes at an even less competitive position.

We are concerned about the impact of the provisions of H.R. 2259 on the "small" port business community. We are doubly concerned about how the increased cost of Customs services will affect the communities' ability to compete in the market place. Specifically, we think that H.R. 2259 would adversely affect importing merchants and manufacturers, steamship lines and agents, terminal operators, Customs House Brokers, warehouses of imported cargoes, dock workers, banks and others providing shoresides or off-site support traditionally required by steamship lines.

Clearly, the impact of H.R. 2259 would be a spiraling one. We believe that a port which does not have Port of Entry status is far less attractive to a steamship line than is a port which can provide Port of Entry services. The carrier which would normally call at a port lacking Port of Entry designation as a result of enactment of this Bill may simply divert to another port offering the full range of Customs services. This could easily happen in Pennsylvania, for example, where a ship originally calling at the Port of Erie might shift to the Port of Cleveland. This would be beneficial to the Port of Cleveland and the city, but it would be very costly for the Port of Erie and its supporting industries. If a ship chooses not to alter its port of call it will be forced, at high cost, to "import" customs officials and services each time it requires entry services. This is not a far fetched possibility, but a very probable result of enactment of H.R. 2259.

Steamship lines, which operate with daily overheads of tens of thousands of dollars, are unlikely to tolerate the operating delays and additional costs imposed on them by restrictive Customs operations. A vessel which must call a port without Port of Entry status will not repeatedly tolerate for hours or days waiting for Customs personnel to be dispatched from other locations. The company operating the ship will soon add this newest operating restriction to the growing list which makes serving Great Lakes less and less viable. Eventually, it will no longer serve the Lakes.

It is hard to find anything redeemable about H.R. 2259. It raises important questions, but fails to answer them. It puts an unknown number of "small" ports and the companies serving them into jeopardy. It may even pit ports located within the same state against each other in their eventual quest to gain state support for purchasing reimbursable Customs services.

Based on the problems inherent in this Bill, and on the problems it will create, we strongly urge you to vote against its further consideration.

H.R. 2273

To make permanent the free rate of Customs duty on imported hatters' fur, and for other purposes

U.S. International Trade Commission

Section-by-section analysis

The proposed legislation would provide permanent duty-free treatment for hatters' fur now classified in Tariff Schedules of the United States (TSUS) item 186.20 while removing carroted furskins from the scope of that item. A new item 186.22 would be added by section 2 to cover carroted furskins which would be dutiable at a column 1 rate[1] of 15 percent ad valorem and a column 2 rate[2] of 35 percent ad valorem.

The amendments made by this legislation would be effective with respect to articles entered or within from warehouse for counsumption on or after January 1, 1986.

Background and sponsor's justification

Description and uses.—Hatters' fur (described in the TSUS as "fur, not on the skin, prepared for hatters' use") is the principal raw material used in the production of fur felt hats. Hatters' fur is cut from the skins of certain animals (chiefly rabbits and hares) after the skins have undergone carroting, a chemical process to improve the felting properties of the fur. Most of the hatters' fur produced in the United States is cut from raw skins which are imported free of duty and then carroted in the United States before the removal of the fur for use as hatters' fur. Almost all U.S.-produced hatters' fur is made from imported furskins; it is reported to be of the same quality as imported hatters' fur.

Sponsor's justification.—According to the sponsor, these changes would correct an anomaly in the tariff rates of duty whereby imported finished products (fur felt hats) and semifinished products (hat bodies, known in the trade as hoods) are dutiable at a lower rate than the raw material (hatters' fur) used to make the finished and semifinished product.[3]

Comparison with present law

Tariff treatment under the TSUS.—Imports of hatters' fur under TSUS item 186.20 are dutiable at a column 1 rate of 15 percent ad valorem and a colunm 2 rate of 35 percent ad valorem. The column 1 rate is suspended through December 31, 1985. Item 186.20 was not the subject of duty reductions in the Tokyo round of Multilateral Trade Negotiations under the General Agreement on Tariff and Trade (GATT). Thus, there is no separate least developed developing countries (LDDC) rate of duty.[4] Imports under TSUS item 186.20 are eligible for preferential tariff treat-

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The rates of duty in the column numbered 2 apply to imported products from those communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[3] Information provided by sponsor's staff during consideration of proposal to suspend temporarily the column 1 duty rate (enacted as section 124 of Pub. L. 97-446, 96 Stat. 2329, in the form of TSUS item 903.85).

[4] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

ment under the Generalized System of Preferences (GSP)[5] and the Caribbean Basin Economic Recovery Act (CBERA).[6]

Imports of the raw material from which almost all hatters' fur is made (raw or not dressed rabbit furskins) are classifiable under TSUS item 124.10. Such imporst are free of duty from both column 1 and column 2 countries.

The bulk of the imports of the finished products (fur felt hats) and semifinished products (hoods) which are made from hatters' fur are classifiable under TSUS item 703.35 (headwear, for men or boys, of fur not on the skin, valued over $30 per dozen)[7] and are dutiable at a column 1 rate of $1.51 per dozen plus 2.2 percent ad valorem, a LDDC rate of $1.10 per dozen plus 1.6 percent ad valorem, and a column 2 rate of $16 per dozen plus 25 percent ad valorem (table 1). The ad valorem rate of duty for all imports classifiable under TSUS item 703.35 was 5 percent ad valorem in 1984. The column 1 duty rate in TSUS item 703.35 is subject to staged rates of duty reductions as negotiated under the Tokyo round (table 1).

HS commodity code number	Description	Rates of duty	
		Col. 1 [1]	Col. 2
	Fine or coarse animal hair, not carded or combed:		
	Fine animal hair:		
	Other:		
5102.10.80	Fur, not on the skin, prepared for hatters' use	15% [2]	35%

[1] Represents the proposed "General" Col. 1 rate.
[2] Duty temporarily suspended until December 31, 1985 (HS Commodity Code Number 9902.51.02).

Tariff treatment under the Harmonized System (HS).—The proposed tariff treatment under the HS for fur, not on the skin, prepared for hatters' use is shown below:

Structure of the domestic industry

The chart on the following page shows the various segments and sources of supply of the U.S. fur felt hat industry.

The hatters' fur and fur felt hat industries are characterized by high degrees of concentration and integration. Five firms are believed to account for nearly all of the domestically produced hoods and fur felt hats. These firms are: Resitol Hat Company (a division of Battery Street Enterprise, which is a subsidiary of Levi Strauss Co.) of Garland, Texas (Resistol is estimated to account for 40 percent of total U.S. fur felt hat production); Stetson Hat Co., Inc. of Danbury, Connecticut; Langenberg Hat Company of Marthasville, Missouri; J.P.D. Inc. of Newark, New Jersey; and Stratton Hats, Inc. of Bellwood, Illinois. These firms, however, have subsidiaries and plants located throughout the United States, with much of the hatters' fur reported to be produced around Newark, New Jersey. Excluding Stratton Hats, Inc., which imports hatters' fur for production of hoods and hats, these firms are believed to account for the great bulk of U.S. production of hatters' fur. (A few independent hatters' fur manufacturers are reported to be in business and other firms are reported to produce hatters' fur sporadically.) Although the firms ocasionally sell hatters' fur or hat bodies to each other, most of the production of hatters' fur and hoods is captive production for producing their own fur felt hats.

A similar concentration exists with regard to imports. Of the same five firms, four account for the great bulk of U.S. imports of rabbit furskins used to manufacture hatters' fur. The five firms together account for almost all U.S. imports of hatters' fur, and for some U.S. imports of fur felt hats.

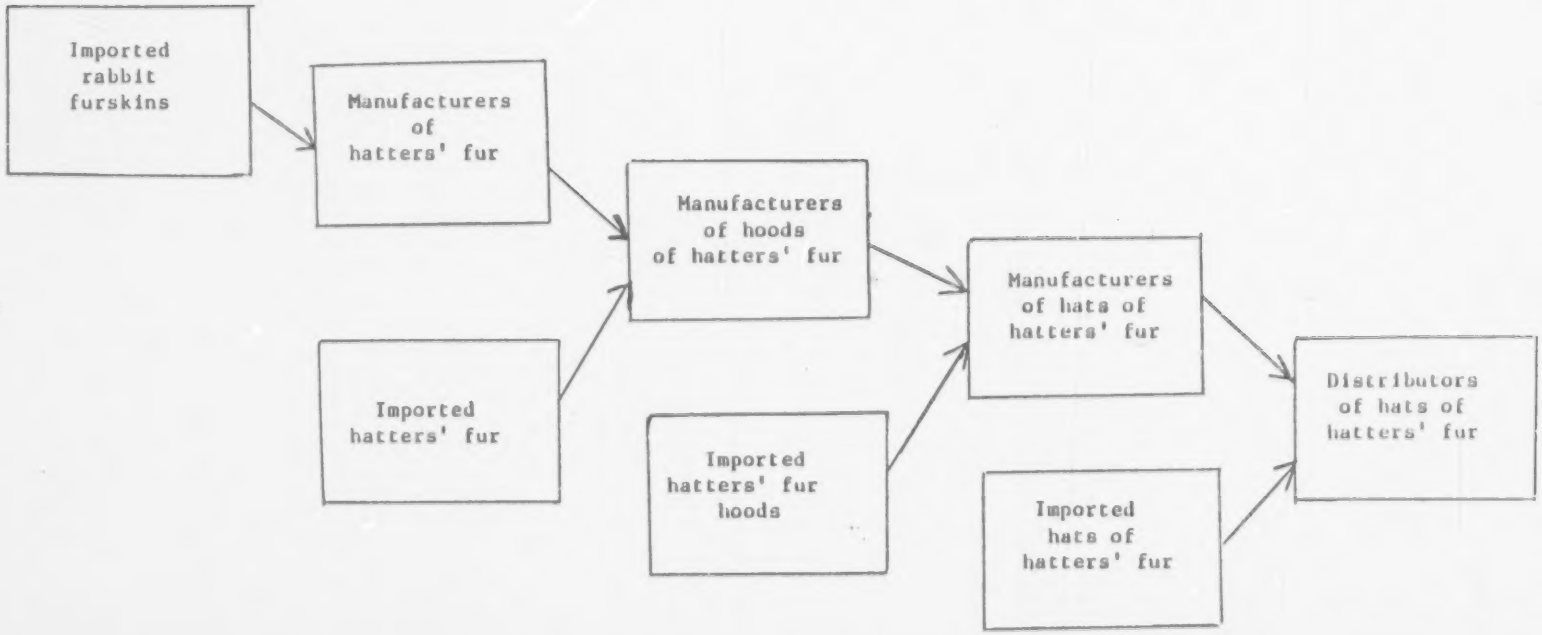
---

[5] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[6] The CBERA affords nonreciprocal tariff preferences to develping countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[7] Industry sources indicate that almost all imports of hoods and hats are valued at over $30 per dozen and that imports of fur felt hats for women and girls are negligible.

Schematic Diagram of the Segments and Sources of Supply
of the U.S. Fur Felt Hat Industry


Imported rabbit furskins
Manufacturers of hatters' fur
Imported hatters' fur
Manufacturers of hoods of hatters' fur
Imported hatters' fur hoods
Manufacturers of hats of hatters' fur
Imported hats of hatters' fur
Distributors of hats of hatters' fur

Domestic production

Detailed statistics concerning U.S. production of hatters' fur are not available. Industry sources estimate that U.S. production amounts to less than one million pounds annually. Production, which began declining after World War II, dropped steeply in the 1960's. In recent years, however, the industry has revived somewhat with the increased demand for Western-style hats. Industry sources indicate that the domestic industry has considerable unused and underutilized capacity.

U.S. imports, exports, and apparent consumption

Data concerning U.S. imports of hatters' fur are shown in table 2. During 1980–84, U.S. imports of hatters' fur generally declined, ranging from a high of 195,000 pounds, valued at $2.6 million, in 1981 to 26,000 pounds, valued at $226,000, in 1984. France was the principal source for U.S. imports during 1980–84, supplying 16,000 pounds, valued at $155,000, or 62 percent of the quantity and 69 percent of the value of imports in 1984. The remainder of U.S. imports of hatters fur in 1984 were supplied by Belgium and the Federal Republic of Germany. Imports from column 2 sources were nil in 1984.

Two hat manufacturing companies and their subsidiaries account for almost all of U.S. imports of hatters' fur. Since two importers account for nearly all U.S. imports of hatters' fur, the names and locations reflect business confidential information and are not included in this report. U.S. exports of hatters' fur are believed to be negligible. Thus, based on import statistics and industry estimates of production, apparent U.S. consumption of hatters' fur amounted to about one million pounds annually in recent years.

U.S. imports of raw or not dressed rabbit furskins, from which hatters' fur is made, increased from 4.6 million pounds in 1980 to 5.7 million pounds in 1981; such imports fell to 870,000 pounds in 1983, then increased to 2 million pounds in 1984 (table 3). France has been the principal supplier. Among the largest importers of rabbit furskins are American Fur Brokers Inc., 101 West 31st Street, New York, New York 10001; Langenberg Hat Company, P.O. Box 17, Mathasville, Missouri 63357; Stetson Hat Co., Inc., 89 Rose Hill Avenue, Danbury, Connecticut 06810; and United Fur Cutters, 350 South Street, Newark, New Jersey 07105.

U.S. imports of headwear of the type classifiable under TSUS item 703.35, which includes fur felt hats of the type made from hatters' fur, rose from 28,000 dozen in 1980 to 70,000 dozen in 1984. Imports fell to 13,000 dozen in 1983, and then rose to 19,000 dozen in 1984 (table 4).

Effect on revenue

Based on imports in 1984, it is estimated that the annual loss of customs revenue resulting from enactment of the legislation would approximate $34,000.

Technical comments

In section 1, a comma should be inserted after "description", the words "by striking out" inserted before "15% ad valorem", and "in lieu thereof" inserted after "inserting".

In section 2, the columns for "GSP", "Stat. suffix", and "Units of quantity" and their contents should be deleted; these are administratively adopted rather than enacted. The corrected tariff item should be as follows:

"186.22	Carroted furskins	15% ad val.	35% ad val."

No column headings should be enacted; it should be noted that the rates of duty columns are headed "1", "LDDC", and "2" (not "1", "2", and "3") but that these headings have no legal significance and need not be duplicated in the bill.

TABLE 1.—HEADWEAR OF FUR NOT ON THE SKIN FOR MEN AND BOYS: U.S. RATES OF DUTY, BY TSUS ITEM

TSUS item No. [1]	Description	Pre-MIN col 1 rate of duty [2]	Staged [3] col. 1 rates of duty effective with respect to articles entered on or after Jan. 1								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
	Headwear of fur, not on the skin:										
	For men and boys:										
703.35A*		$2.75/doz. +4% ad val.	$2.54/doz. +3.7%	$2.33/doz. +3.4%	$2.13/doz. +3.1%	$1.92/doz. +2.8%	$1.71/doz. +2.5%	$1.51/doz. +2.2%	$2.30/doz. +1.9%	$1.10/doz. +1.6%	$16/doz. +25%

[1] The designation "A*" indicates that the item is currently designated as an eligible article for duty-free treatment under the GSP and that certain beneficiary developing countries, specified in general headnote 3(c) of the Tariff Schedules of the United States Annotated, are eligible.
[2] Rate effective prior to Jan. 1, 1980.
[3] The symbol "%" indicates "percent ad valorem."

TABLE 2.—HATTERS' FUR [1]: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
France	78	88	42	19	16
Belgium	19	8	8	0	5
Federal Republic of Germany	26	80	4	2	5
Canada	0	0	0	11	0
Japan	0	0	0	19	0
Czechoslovakia	0	7	6	0	0
Brazil	4	1	1	0	0
Spain	9	12	(2)	0	0
Australia	2	0	0	0	0
Total	138	195	61	51	26
	Value (1,000 dollars)				
France	897	1,188	371	196	155
Belgium	244	89	9	.....	44
Federal Republic of Germany	254	1,140	20	11	27
Canada	.....	.....	.....	32	.....
Japan	.....	.....	.....	18	.....
Czechoslovakia	.....	68	71	.....	.....
Brazil	76	13	7	.....	.....
Spain	96	129	2	.....	.....
Australia	28	.....	.....	.....	.....
Total	1,594	2,627	480	256	226
	Unit value (per pound)				
France	$11.54	$13.49	$8.87	$10.11	$9.82
Belgium	12.84	11.44	1.06	.....	9.67
Federal Republic of Germany	9.81	14.32	4.63	7/14	5.05
Canada	.....	.....	.....	2.89	.....
Japan	.....	.....	.....	0.95	.....
Czechoslovakia	.....	10.23	12.43	.....	.....
Brazil	18.00	12.21	13.50	.....	.....
Spain	10.19	10.65	4.30	.....	.....
Australia	12.74	.....	.....	.....	.....
Average	11.52	13.45	7.82	5.07	8.69

[1] Although the imports are believed to be hatters' fur, limited quantities of carroted furskins could be included herein.
[2] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 3.—RABBIT FURSKINS: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
France	3,829	4,531	1,132	270	861
Hungary	32	707	66	234	778
Austral	301	151	47	72	75
Belgium	71	15	13	0	135
Italy	21	0	(1)	48	119
Canada	175	118	68	59	68
Uruguay	0	0	0	0	8
Spain	60	2	1	0	1
Chile	9	0	12	182	0
Fr Germ	7	0	0	7	0
All other	48	190	8	(1)	0
Total	4,552	5,714	1,347	873	2,043
	Value (1,000 pounds)				
France	6,834	8,693	1,774	275	972
Hungary	65	1,876	180	179	433
Austral	679	557	54	91	127
Belgium	190	81	29	.....	102
Italy	18	.....	2	28	85
Canada	415	362	99	45	66
Uruguay	.....	.....	.....	.....	10
Spain	69	2	5	.....	2
Chile	70	.....	15	43	.....
Fr Germ	14	.....	.....	5	.....
All other	186	741	17	(1)	.....
Total	8,538	12,312	2,174	667	1,797
	Unit value (per pounds)				
France	$1.78	$1.92	$1.57	$1.02	$1.13
Hungary	2.02	2.65	2.72	0.77	0.56
Austral	2.25	3.68	1.15	1.27	1.69
Belgium	2.67	5.28	2.31	.....	0.76
Italy	0.86	.....	4.48	0.59	0.72
Canada	2.38	3.08	1.47	0.76	0.98
Uruguay	.....	.....	.....	.....	1.22
Spain	1.14	0.84	4.13	.....	3.70
Chile	7.71	.....	1.18	0.23	.....
Fr Germ	1.95	.....	.....	0.63	.....
All other	3.90	3.91	2.28	8.18	.....
Average	1.88	2.15	1.61	0.76	0.88

[1] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 4.—HEADWEAR OF FUR NOT ON THE SKIN, FOR MEN AND BOYS: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCE, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 dozen)				
Italy	3	2	2	2	3
Portugal	1	8	4	6	7
Canada	5	8	1	2	3
U King	1	4	2	1	1

TABLE 4.—HEADWEAR OF FUR NOT ON THE SKIN, FOR MEN AND BOYS: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCE, 1980–84—Continued

Source	1980	1981	1982	1983	1984
Rep Saf	3	7	1	(1)	1
Fr Germ	4	14	2	(1)	1
Czecho	1	(1)	1	1	1
Austral	3	2	(1)	(1)	(1)
Austria	(1)	(1)	(1)	(1)	(1)
Poland	3	4	1	(1)	1
All other	2	20	(1)	(1)	(1)
Total	28	70	14	13	19
	Value (1,000 dollars)				
Italy	524	493	420	508	772
Portugal	75	876	299	458	504
Canada	1,914	2,961	226	322	457
U King	304	682	342	96	238
Rep Saf	543	1,287	95	84	161
Fr Germ	712	1,905	333	40	153
Czecho	127	58	89	152	122
Austral	349	326	1	5	97
Austria	24	80	88	15	63
Poland	151	225	43	15	55
All other	379	3,307	89	37	18
Total	5,102	12,198	2,024	1,732	2,640
	Unit value (per dozen)				
Italy	$204.50	$238.33	$212.34	$257.17	$285.23
Portugal	62.32	104.61	69.97	73.39	68.30
Canada	372.97	390.33	223.39	165.18	168.84
U King	213.44	187.10	215.19	176.39	208.98
Rep Saf	164.33	178.21	168.60	251.99	200.92
Fr Germ	158.44	138.80	149.07	136.68	128.30
Czecho	107.11	144.29	140.58	207.85	194.59
Austral	127.67	154.89	138.20	180.12	322.68
Austria	290.81	220.82	193.46	238.31	239.80
Poland	48.93	60.19	54.51	34.49	39.01
All other	159.92	162.14	198.14	152.70	113.43
Average	185.01	175.23	144.80	134.91	141.28

[1] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 2273, a bill "To make permanent the free rate of Customs duty on imported hatters' fur, and for other purposes."

The Department has no objection to enactment of H.R. 2273.

H.R. 2273 provides for the permanent elimination of the column 1 (MFN) duty on haters' fur. In the absence of the present duty suspension, this item enters the United States under Tariff Schedules of the United States (TSUS) item 186.20, with a column 1 (MFN) duty on haters' fur. In the absence of the present duty suspension, this item enters the United States under Tariff Schedules fo the United States (TSUS) item 186.20, with a column 1 (MFN) duty of 15 percent ad valorem. The current column 2 (statutory) duty of 35 percent ad valorem would not be changed. The bill also would create a new category for carroted furskins, currently included under TSUS item 186.20, and would maintain the current MFN and statutory duties on this item.

The present suspension of duty on hatters' fur expires December 31, 1985. Imports under TSUS 186.20 are eligible for duty-free treatment under the U.S. Generalized System of Preferences (GSP).

H.R. 2273 would remove a tariff anomaly that encourages the importation of finished hats made from rabbit furskins over that of the raw materials (hatter's fur) from which such hats are produced. Presently, all rabbit furskins used in domestically produced felted hats are imported.

Imports of finished hats or semi-finished hat bodies (covered under TSUS 703.35) compete with hatters' fur. These hats currently enter at a compound rate of duty that is equivalent to approximately 3.3 percent ad valorem. In addition, about twenty percent of finished and semi-finished hats enter the United States duty-free under the GSP. This tariff disparity makes it very difficult for domestic hat producers to remain competitive with imports of finished or semi-finished hat bodies. There are only four felted-hat producers in the United States. These products depend solely on imports of hatters' fur.

A permanent duty suspension on hatters' fur would result in a revenue loss of $33,780 per year. Enactment of H.R. 2273 would have no effect on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

STATEMENT OF LEONARD LEHMAN, COUNSEL, ON BEHALF OF STRATTON HATS, INC.

SUMMARY

I. The purpose of the bill

To make permanent the existing suspension of the 15 percent import duty on hatters' fur.

II. Reasons for Enactment

A. The normal tariff rate of 15 percent on hatters' fur, from which finished hats and semi-finished hat bodies of fur felt are made, is approximately five times the ad valorem equivalent of the duty on imports of the hats and hat bodies themselves. This inequity discourages the importation of the raw material and the employment of American manpower to produce the finished and semi-finished product.

B. Even with the benefit of duty-free treatment, the lower labor costs in foreign countries for manufacturing hats and hat bodies of fur felt make it extremely difficult for U.S. hat manufacturers to compete with imported manufactured products.

C. The kind of fur used for fur felt hats is not natively available in the United States, and no U.S. fur producer competes with the fur importations involved.

D. The few importers of fur skins who remove the fur from the skin before manufacturing hat bodies are "captive" affiliates of major hat companies, and have not been adversely affected by the temporary duty-free rate for hatters' fur off the skin.

E. Despite the suspension of duty on hatters' fur importations of that fur have trended downward since 1983, while the importation of fur felt hats and hat bodies of the kind manufactured by Stratton and other small independent manufacturers have increased some 34 percent by volume.

III. Conclusion

Although duty-free treatment cannot solve entirely the competitive disadvantages for independent fur felt hat manufactuers competing with importations of semi-finished products form lower wage areas, the establishment of a permanent duty-free rate for hatters' fur is absolutely essential for the survival of small U.S. hat producers who wish to use United States employment facilities to manufacture their products from the basic raw material of hatters' fur.

STATEMENT

My name is Leonard Lehman. I am a member of the firm of Barnes, Richardson & Colburn, 1819 H Street, N.W., Washington, D.C. I represent Stratton Hats, Inc. of Bellwood, Illinois, on whose behalf I am submitting the following statement in support of enactment of H.R. 2273, a bill to make permanent the duty-free status of hatters' fur.

I. The Purpose of the Bill

The purpose of H.R. 2273 is to provide permanent relief from a tariff inequity that encourages the importation of finished products (hats and hat bodies) over the entry of the essential imported raw material (hatters' fur) used in United States production.

Under the normal duty structure, imports of rabbit fur used in the production of quality, felted hats in the United States is 15 percent ad valorem.[1] On the other hand, imports of finished felted headwear and/or semi-finished felted hat bodies are dutiable at a compound (specific plus ad valorem) rate that is substantially lower in terms of its ad valorem equivalent.

About 40 percent of the imports of finished and semi-finished hats of fur felt enter the United States free of duty under the Generalized System of Tariff Preferences for developing countries (GSP). Overall, the ad valorem equivalent of the duty on such imports is only about 3 percent.

This inequity in the rate structure discourages the importation of an essential raw material for further processing in the United States, while at the same time it encourages the importations of finished or semi-finished products. The tariff disparity makes it exceedingly difficult for U.S. hat producers to remain competitive with the imports of finished or semi-finished hat bodies from abroad. The sole purpose of the legislation is to rectify permanently the anomaly in question by making the importation of rabbit fur—used solely in the production of fur felt hats in the United States—free of duty so as to enhance the ability of U.S. hat producers to remain competitive with imported finished and semi-finished hats. The tariff provisions in question are summarized below:

Tariff item		Rate of duty
186.20	Hatters' fur	15% ad valorem[1]
703.35	Headwear, of fur not on the skin, for men and boys, valued over $30 per dozen..	$1.51 per dozen plus 2.2 percent ad valorem (equivalent to about 3.3 percent ad valorem)

[1] Temporarily suspended until December 1985.

II. Background

Stratton Hats, Inc., of Bellwood, Illinois ("Stratton"), is a producer of quality civilian hats made from fur felt and of fur felt hats for uniformed forces such as State police and other government enforcement agencies (e.g. Immigration Border Patrols, Mounted Police, and the like). These hats sell exclusively in high-priced ranges—well above $30 each—and do not compete for markets with lower-priced hats made of wool or other materials.

All such headwear is made out of fur cut from rabbit skin. Because there is no rabbit variety in this country providing a quality of fur suitable for making felt hats, domestic hat producers have always depended upon imports to supply their raw materials requirements. The imports in question are used exclusively for making hats.

At least 95 percent of Stratton's Bellwood production consists of "class A" type uniform hats, which, as noted, do not compete with other lower-price hats made of wool or other materials. Stratton imports rabbit fur that has been removed from the skin and prepared for hatters' use which then is further processed and manufactured into finished hats in the United States. About 80 percent of this material is from France and the balance is imported primarily from Portugal and Czechoslovakia.

The fur is entered through the Port of Savannah, Georgia, and trucked to Stratton's manufacturing plant in Winchester, Tennessee. The Winchester facility forms the imported material into a rough body or shell (a semi-finished hat known in the trade as a "hood"). About 60 percent of these hoods are sent to the Bellwood, Illinois facility for final processing into finished uniform hats. The remainder is finished in the Winchester plant into Western and other quality civilian fur felt headwear for men, or sold to other small independent hatmakers in the United States.

---

[1] The duty on hatters' fur was temporarily suspended in 1983. That suspension is scheduled to expire in December 1985. As noted below, there is no rabbit variety in the United States having a fur suitable for making felted hats, and all such fur is imported.

III. The Critical Need for Legislation

The production of hats from imported fur is highly labor intensive and a good deal of the final cost is represented by the labor input. As noted, hats and hoods imported from GSP-eligible countries are completely free of duty. Astoundingly, the permanent rate (15 percent) for hatters' fur—the raw material—is five time higher than the rate for dutiable finished or semi-finished hats. Stratton's major competitors now import fur felt hoods, free of duty or almost so, which are similar to those manufactured by Stratton from the imported fur normally dutiable at 15 percent.

The high duty on hatters' fur, coupled with the very low rate of duty on finished and semi-finished hats is hurting Stratton's business severely and threatens the viability of its efforts to continue the production of semi-finished and finished hats from imported fur. Stratton's Winchester plant employed 115 people in 1973, but now employs about 45 persons. The inequity in the disparate tariff rates for the raw material for hats and for the finished or semi-finished products made from the fur has contibued materially to that situation.

The loss by Stratton of a market for its hoods because of the imports, as well as its inability to compete effectively in markets for its finished hats with importers of such hoods or hats from low wage countries, led Stratton to seek a temporary suspension of the duty on hatters' fur in 1983. This suspension is scheduled to expire at the end of this year (1985).

During the suspension, the importations of hatters fur from traditional sources trended downward while the importation of semi-finished hoods and of fur felt hats of a kind produced by Stratton have increased some 34 percent by volume. (Tables 1 and 2) The problem for Stratton, as a user of imported hatters' fur, is clear: Unless remedial action is taken to rectify permanently the negative tariff on the finished product by eliminating the duty on the raw material, it will be virtually impossible to sell its products in competition with importers whose products enter free of duty or at extremely low rates that are a fraction of the 15 percent ad valorem duty on Stratton's raw material.

In Stratton's view, the disparity between the rate structure for finished or semi-finished hats and that for the raw material from which they are made makes no sense no matter how approached. The inverted tariff structure penalizes those U.S. concerns that continue, or are trying to continue, to produce domestically, fur felt hats and hoods that are made from the imported raw material (the only source of supply). It has encouraged the exportant of jobs and the dislocation of domestic employment by imports from countries that already enjoy a substantial benefit from significantly lower wage rates than prevail in the United States. Overall, the rectification of this inadertent, but seriously inequitable, situation would be especially beneficial to the U.S. hat industry.

The proposal to make permanent the suspension of the existing 15 percent rate of duty on hatters' fur is designed solely to maintain, to some extent, the competitveness of hat manufacturers that must utilize an imported raw material because of the absence of a domestic source. It will help to maintain an indutry producing in the United States and thus contribute to the employment and value added by these operations in the communities in which the facilities in question are located.

Even with this rectification, hood importers will continue to benefit from the duty-free treatment of hats under the GSP as well as the staged rate reductions that continue to be applicable to the ordinary low rates for finished and to semi-finished hats. As already noted, the imports of finished and semi-finished hats increased nearly 34 percent from 1982–1984 (while the suspension of the rate of hatters' fur was in effect). A growing proportion of these imports entered free of duty, and it is obvious that lower labor costs for hat manufacturers in many off-shore locations will continue to present a strong challenge to the competitiveness, employment, and profitability of domestic manufacturers, a situation that makes the need for this legislation even more critical.

In addition to imported hatters' fur there is some domestic production of such material from imported rabbit skins—a large proportion is normally from the same countries supplying hatters' fur. Such skins, which are classified under tariff item 124.10, have been free of duty at least since 1914.

According to our information there are only two major firms engaged in the cutting of fur from imported skins. One of these, Byer-Rolnick (also known as Resistol) of Garland, Texas is a subsidiary of the Levi Strauss Co. The other major concern, the United States Fur Cutters, of Danbury, Conn., is a division of the Danbury Hat Co., which is controlled by the Stetso Co. Stetson, since 1971, has been a subsidiary of the Stevens Hat Manufacturing Company of St. Joseph, Missouri. So far as is known, there are only one or two other part-time cutters still in existence.

The total employment of fur cutters, almost entirely captive to the above major hat firms, it believed to have been stable in recent years and to have averaged somewhat less than 200 workers per year. The imports of skins more than doubled from 1983 to 1984 (Table 3) when the suspension was in effect so that the captive employment in that sector was not adversely affected by the temporary duty suspension on hatters' fur.

If employment in processing imported rabbit skins is threatened by imports of any kind, such a threat comes from the nominal duty or duty free status for semi-finished hoods or finished hats rather than from the proposed permanent duty-free status for imported hatters' fur for use in U.S. manufacturing facilities by small, independent hat manufacturers such as Stratton Hats.

TABLE 1.—U.S. IMPORTS OF MEN'S FINISHED AND SEMI-FINISHED HEADWEAR MADE FROM FUR FELT (HATTERS' FUR) AND VALUED OVER $30 PER DOZEN (TSUS ITEM 703.35)

Year	Total imports		Duty-Free GSP imports		
	Dozen	Value	Dozen	Value	Percent freed[1]
1982	13,980	$2,024,334	4,260	310,568	30
1983	12,837	1,731,901	6,237	457,756	49
1984	18,689	2,640,446	7,453	511,260	40

[1] Based on volume.

Source: Compiled by Barnes, Richardson & Colburn from official statistics of the U.S. Department of Commerce.

TABLE 2.—HATTERS' FUR (TSUS ITEM 186.20): U.S. IMPORTS FOR CONSUMPTION, 1982–84

Country	1982	1983	1984 [1]
Quantity (in pounds):			
France	41,853	19,355	15,784
West Germany	4,426	1,543	5,290
Spain	450	.....	.....
Belgium	8,492	.....	4,500
Czechoslovakia	5,710	.....	.....
Japan	.....	18,697	.....
Australia	.....	.....	.....
Brazil	500	.....	.....
Canada	.....	10,947	.....
Total	61,431	50,542	25,574
Value (in dollars):			
France	$371,226	$195,662	$154,985
West Germany	20,491	11,018	26,712
Spain	1,935	.....	.....
Belgium	9,001	.....	43,500
Czechoslovakia	70,948	.....	.....
Japan	.....	17,843	.....
Australia	.....	.....	.....
Brazil	6,750	.....	.....
Canada	.....	31,658	.....
Total	480,351	256,181	225,197

[1] Note: Excludes imports from Ecuador amounting to 264,552 pounds valued at $225,197, believed to have been misclassified.

Source: Official Statistics, U.S. Department of Commerce (IM 146).

TABLE 3.—RABBIT FURSKINS (124.10.40) U.S. IMPORTS FOR CONSUMPTION (1979–84) [1]

Country [1]	1982	1983	1984
Quantity (1,000 pounds):			
France	1,131,823	270,246	860,700
Hungary	66,138	233,669	777,784

TABLE 3.—RABBIT FURSKINS (124.10.40) U.S. IMPORTS FOR CONSUMPTION (1979–84) [1]—Continued

Country [1]	1982	1983	1984
Belgium	12,766	.....	134,750
Italy	344	48,300	118,614
Australia	46,841	71,629	74,951
Argentina	6,118	.....	.....
Canada	67,516	59,294	67,750
All other	14,955	189,631	8,727
Total	1,346,501	872,769	2,043,276
Value ($1,000):			
France	$1,773,813	$275,298	$972,154
Hungary	180,000	178,869	432,628
Belgium	29,499	.....	101,774
Italy	1,540	28,337	84,861
Australia	53,667	91,319	126,868
Argentina	15,036	.....	.....
Canada	98,929	45,305	66,118
All other	21,474	47,611	12,232
Total	2,173,958	666,739	1,796,635

[1] Ranked by the volume of imports in 1984.

Source: Official Statistics, U.S. Department of Commerce (IM 146)

H.R. 2278

Relating to the tariff classification of salted and dried plums, and for other purposes

U.S. International Trade Commission

Section-by-section analysis

The proposed legislation would amend the Tariff Schedules of the United States (TSUS) to provide separately for salted dried plums. Section 1 would detete TSUS item 149.28 and insert in lieu thereof new items 149.30 and 149.31. Item 149.28 covers otherwise prepared or preserved plums, prunes, and prunelles (those not in brine and not dried), with a column 1 rate of duty [1] of 17.5 percent ad valorem and a column 2 rate of duty [2] of 35 percent ad valorem. The first new TSUS item, 149.30, would provide for plums, soaked in brine and dried, with a duty rate of 2 cents per pound under both column 1 and column 2. The second new item, 149.31, would cover the remaining prepared or preserved plums, prunes and prunelles with the same column 1 and column 2 duty rates as are imposed under current item 149.28.

Under section 2, these tariff classification changes would be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment. In addition, section 2 would extend retroactively the lower duty rate under TSUS item 149.30 (on request by the importer) to entries made after April 20, 1983, and before the 15th day after enactment. This duty treatment would be available where the shipment, if entered after the effective date for this Act, would have been dutiable at a lower rate.

Background

Description and uses.—Plums are the fruit of a perennial, flowering tree grown in temperate climates throughout the world; in the United States, more than 2,000 varieties of plums, consisting of about a dozen species, have been grown. Most of the important varieties grown commercially are of 2 species, European plums (*Prunus domestica*), best suited for drying, and Japanese plums (*Prunus salicina*), marketed chiefly as fresh fruit. Varieties of plums grown in the West for drying are ofter referred to as prunes in either a fresh or a dried state. A group of prunes commonly referred to as purple plums or prune-plums are chiefly in the Pacific Northwest and Michigan for use in fresh, canned, or dried form.

Canned plums are generally used as an appetizer, a side dish, or a dessert fruit, while frozen plums are used in the manufacture of preserves and baked goods. Plums and prunes in brine are primarily oriental specialty foods.

Purpose.—According to the sponsor,[3] the proposal is intended to grant a lower duty rate to plums which are first heavily salted by soaking in brine, then dried, and which have a limited market as an oriental delicacy. Because they were first salted, these plums are not classified as "dried" by the Customs Service; however, the sponsor argues that the rate of duty on dried plums is appropriately applied to this product because it is in essence dried, rather than canned or frozen. He also cites the lack of domestic production of this specialty fruit.

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Repubic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[3] This information was obtained from the sponsor and his staff in relation to the introduction of H.R. 4353, 98th Congress. No statement appeared in the Congressional Record regarding the current bill.

Comparison with present law

Imported prepared or preserved plums, prunes, and prunelles (including plums soaked in brine and then dried) are currently classified in TSUS item 149.28 with a column 1 rate of duty of 17.5 percent ad valorem. This rate reflects a concession granted by the United States in the sixth round of trade negotiations (Kennedy Round) under the General Agreement on Tariffs and Trade, effective January 1, 1969. There was no change in the column 1 rate at the Tokyo round of the Multilateral Trade Negotiations. The column 2 rate is 35 percent ad valorem. Imported plums classified in this tariff item (which includes canned, frozen and other plums) are not eligible for duty-free treatment under the Generalized System of Preferences (GSP),[4] nor are the least developed developing countries (LDDCs) afforded preferential rates.[5] However, articles imported from beneficiary countries are eligible for duty-free entry under the Caribbean Basin Economic Recovery Act (CBERA).[6]

Tariff treatment under the proposed Harmonized System.—The tariff treatment for the subject plums under the proposed Harmonized System (HS) is shown below, according to the September 1984 draft converted schedule:

Heading	Article description (abridged)	Proposed col. 1—general rate
0813	Fruit, dried:	
0813.20.00	Plums, prunes and prunelles	17.5% ad val.
2008	Fruit, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit:	
2008.99.60	Plums, prunes and prunelles	17.5% ad val.

Structure of the domestic industry

Plums and prunes are produced commercially in nearly every State, with 91 percent of the crop harvested in California in recent years. According to the Census of Agriculture, plums and prunes were produced on 140,000 acres on 11,200 farms in 1982, compared with 136,000 acres on 13,100 farms in 1978. In 1982, 3,700 farms in California accounted for 122,400 acres of production. Most of the producers raise other crops in addition to plums. However, for some of the producers, particularly some of those in California, the production of plums accounts for the largest part of their total operations.

Domestic production

Total U.S. production of prepared or preserved (that is, canned and frozen) plums and prunes declined irregularly from an estimated 53.7 million pounds in 1980 to 38.2 million pounds in 1984 (table 1). During 1980–84, production of canned purple plums accounted for 88 percent of total production annually. According to industry sources, there is no known domestic production of plums that are soaked in brine and dried.

---

[4] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1983. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[5] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[6] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

U.S. imports

During 1980–84, total U.S. imports of otherwise prepared or preserved plums rose irregularly from 1.8 million pounds, valued at $2.5 million, in 1980 to 2.5 million pounds, valued at $3.2 million, in 1984 (table 2). Data are not separately reported for the plums covered by the proposed legislation; however, such imports are believed to be very small. Hong Kong was the leading source of imported prepared or preserved plums in 1984; Taiwan and China were also sources of supply. In 1984, imports from Jamaica, the only CBERA country supplying prepared or preserved plums, were insignificant, as were column 2 imports of prepared or preserved plums.

In recent years, over 100 firms imported prepared or preserved plums, with 25 firms accouting for the bulk of such imports in 1984. The large-volume firms are located primarily in the Western United States. Most have been importing canned produce for many years, and canned plums are only one of many different products which they import. The names and addresses of the principal importers are not available; Customs brokers are responsible for the entry of much of the subject plums and merely execute the necessary procedures to move the shipments into the customs territory.

U.S. exports

U.S. exports of prepared or preserved plums are not separately reported; however, such exports in recent years are believed to be negligible or nil.

Apparent consumption

During 1980–84, apparent U.S. consumption of prepared or preserved plums declined irregularly, averaging 41.8 million pounds annually; in 1984, consumption amounted to 40.7 million pounds (table 1). The ratio of imports to consumption averaged 5 percent annually throughout the period.

Effect on revenue

The enactment of the legislation would likely have little effect on annual customs revenues. Total imports entered under TSUS item 149.28 in 1984 amounted to $3.2 million, and duties thereon totaled about $561.000; however, imported plums which were soaked in brine and then dried are believed to have accounted for a very small share of this total.

Technical comments

In subsection (b), "withdrawl" should be "withdrawal".

It should be noted that the use of April 20, 1983 as the starting date for requests for reliquidation may present administrative problems for Customs officers. Eligible entries may be numerous, and the relevant files may not be readily accessible.

TABLE 1.—PREPARED OR PRESERVED PLUMS: U.S. PRODUCTION, EXPORTS, IMPORTS, AND APPARENT CONSUMPTION, 1980–84

[Quantity in thousands of pounds; value in thousands of dollars; unit value per pound]

Year	Production [1]	Exports [2]	Imports [3]	Apparent consumption	Ratio (percent) of imports to consumption
			Quantity		
1980	53,739		1,827	55,566	3
1981	46,272		1,570	47,842	3
1982	22,534		1,712	24,246	7
1983	38,496		2,167	40,663	5
1984	38,222		2,470	40,692	6
			Value		
1980	(2)		2,534	(4)	
1981	(2)		2,481	(4)	
1982	(2)		2,618	(4)	
1983	(2)		2,936	(4)	
1984	(2)		3,203	(4)	
			Unit value		
1980	(2)		$1.39		

TABLE 1.—PREPARED OR PRESERVED PLUMS: U.S. PRODUCTION, EXPORTS, IMPORTS, AND APPARENT CONSUMPTION, 1980–84—Continued

[Quantity in thousands of pounds; value in thousands of dollars; unit value per pound]

Year	Production [1]	Exports [2]	Imports [3]	Apparent consumption	Ratio (percent) of imports to consumption
1981	(2)		1.58		
1982	(2)		1.53		
1983	(2)		1.36		
1984	(2)		1.30		

[1] Data include canned purple plums and frozen plums and prunes.
[2] Not available.
[3] Data include otherwise prepared or preserved plums, prunes, and prunelles (TSUS item 149.28).
[4] Not meaningful.

Source: Production estimated by the Commission staff based on data from the National Food Processors Association and the American Frozen Food Institute; imports, compiled from official statistics of the U.S. Department of Commerce.

TABLE 2.—PREPARED OR PRESERVED PLUMS: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Hong Kong	1,132	993	862	876	867
Taiwan	334	294	431	577	660
China	201	138	236	378	522
Japan	105	102	107	156	172
France	5	9	18	48	107
United Kingdom	[2]	3	4	19	21
West Germany	[2]	1	0	3	37
Israel	46	22	8	19	14
All other	4	8	46	91	70
Total	1,827	1,570	1,712	2,167	2,470
	Value (1,000 dollars)				
Hong Kong	$1,724	$1,642	$1,517	$1,352	$1,300
Taiwan	411	439	551	657	799
China	186	171	288	473	582
Japan	184	198	205	299	361
France	6	8	12	46	64
United Kingdom	1	4	4	19	22
West Germany	[2]	1		2	11
Israel	18	12	6	13	11
All other	4	6	35	75	53
Total	2,534	2,481	2,618	2,936	3,203
	Unit value (per pound)				
Hong Kong	$1.52	$1.65	$1.76	$1.54	$1.50
Taiwan	1.23	1.49	1.28	1.14	1.21
China	.92	1.24	1.22	1.25	1.12
Japan	1.76	1.94	1.92	1.92	2.10
France	1.12	.86	.67	.96	.60
United Kingdom	2.28	1.27	.95	1.01	1.03
West Germany	1.05	.94		.56	.29
Israel	.39	.56	.74	.69	.77
All other	1.00	.75	.76	.82	.76
Total	1.39	1.58	1.53	1.36	1.30

[1] Data include otherwise prepared or preserved plums, prunes, and prunelles (TSUS item 149.28).
[2] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

JADE FOOD PRODUCTS, INC.,
Honolulu, HI, June 14, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee of Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: Jade Food Products, Inc. was formed in 1965 after receiving a ruling through Customs Information Exchange letter of 2/25/65 (exhibit A) that imported dried salted plums would be classified as item 149.26 with duty rate of $.02 per pound rather than as item 149.28 with duty rate of 17.5 percent.

Since that time JFP has imported dried salted plums and processed it into Chinese Preserved Seeds. We are the only U.S. manufacturer of this item, and we compete against numerous Asian manufacturers who distribute their finished product through U.S. companies, such as Yick Lung.

In April 1983, JFP was advised by the Customs Service (exhibit B) that the raw material we had been importing for 18 years as item 149.26 was to be reclassified as item 149.28, increasing the duty from $.02 per pound to 17.5 percent (.175×$1.20= $.21 per pound). As shown below, JFP's cost of domestic manufacture of Chinese Preserved Seeds was already at a disadvantage compared to the finished product manufactured in Asia. The $.19 per pound increase in tariff rate served to further increase the cost disadvantage of JFP.

1. JFP is the only U.S. manufacturer of Chinese Preserved Seeds, competing against foreign companies which export their finished products to the U.S. Exhibit C compares the selling price of various JFP locally manufactured products against the landed selling price of Mee Chun, the largest Asian manufacturer who distribute in the U.S. through U.S. companies such as Yick Lung. Exhibit C shows that JFP selling price are 38 percent higher then Mee Chun's.

2. Jade's processing methods require a sanitary factory consistent with U.S. standards. Jade's factory has a replacement cost of $489,445, per appraisal made in April 1985 (exhibit D). In contrast, we attach Exhibit E, which are copies of news articles about the sub-standard facilities and procedures used in Asian companies for the manufacture of the finished products against which we compete. The substandard facilities and procedures of Asian manufacturers are now being reflected in their finished products which FDA has recently begun to inspect with a resultant high rate of rejection. Jade has no problem with FDA inspections since all processing is to U.S. standards.

3. Exhibit F is attached to describe the difference in direct cost of manufacturing seeds in Asia vs Hawaii. This Exhibit considers (a) Asian sugar cost of $20/CWT vs Hawaii cost of $38/CWT, (b) Asian labor cost of $2/hr vs Hawaii labor cost of $7.02/hr and (c) Asia's nil cost of sun-drying vs Hawaii cost of $165/day for oven drying. The result is that Jade's cost of processing one container of seeds in one month is $10,706 higher than in Asia. Since one container load has 28,000 pounds of material, this equates to $0.38 per pound.

4. Exhibit G shows that the 17.5 percent tariff, in comparison to the previous $.02 per pound tariff, is costing Jade Food Products an additional $5,320 per month. This amount could previously be used to partially offset the $10,706 disadvantage described in section 3. above. Neither our foreign competitors nor their U.S. distributors should complain about Jade Food Products having a tariff rate that compensates for only one half of its price disadvantage.

The above illustrates that without the application of tariff 146.26, Jade operates at a price disadvantage of about $10,700 per month. With the application of tariff $149.26, Jade still has a price disadvantage of $5,350 per month.

It should be noted that in 1984, H.R. 4353, which was identical to H.R. 2278, was prepared for presentation. That bill however was retracted on the eve before scheduled presentation because Yick Lung, in its objection to H.R. 4353, stated that their manufacturing operations was identical to Jade's. Thus H.R. 4353 was considered controversial and not presented. As stated above, Yick Lung is a distributor of Asian finished products, not a U.S. manufacturer of those products as Jade is. I attach Exhibit H, a department of Health of State of Hawaii letter stating that Yick Lung is an agent for foreign manufacturers. Thus the objections of Yick Lung should be considered invalid or at least biased in favor of foreign manufacturers over U.S. manufacturers.

Also attached for your reference is Exhibit I, a letter from Hawaii International Services Agency of State of Hawaii favoring passage of H.R. 4353 which was the 1984 identical version of H.R. 2278.

We urge that H.R. 2278 be enacted to re-establish the status quo which existed for 20 years. Failure to enact H.R. 2278 can cause the closing of operation of the only U.S. manufacturer of Chinese Preserved Seeds and the dismissal of 20 employees. Passage of H.R. 2278 will provide a U.S. manufacturer with a fighting chance to compete against foreign manufactures.

Sincerely,

HOLLIS HO, *President.*

[Attachments have been retained in the committee files.]

STATEMENT OF DOUGLAS Q.L. YEE, VICE PRESIDENT, YICK LUNG CO., INC.

This statement is made by and on behalf of Yick Lung Co., Inc., a Hawaii corporation, whose principal place of business is at 580 Dillingham Boulevard, Honolulu, Hawaii 96817, and whose post office address is P.O. Box 1517, Honolulu, Hawaii 96806, and whose telephone number is (808) 841-3611.

Yick Lung Co., Inc. manufacturers, packages and distributes preserved fruits such as mangoes, ginger, lemons and plums and other items in the United States. As a substantial part of its business, it imports, packages and sells prepared and preserved plums.

The proposed amendment to Subpart B of Part 9 of Schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202) contemplates a lower tariff rate for plums which are imported "in brine and dried" as an exception to the higher tariff rate for plums which are "otherwise prepared or preserved".

We would appreciate a clarification of the proposed changes with respect to the following. Yick Lung Co., Inc. presently imports salted, dried plums which are a standard food item called "harm sheong mui" in Cantonese. The plums are picked and immersed between layers of salt for a number of days, then are removed from large holding tanks and sun dried. We presently sell the harm sheong mui "as is" without further processing. From conversations with Mr. James Schlict, office of Congressman Cecil Heftel, Mr. Lee Johnson, U.S. Food and Drug Administration-Honolulu Office, and Mrs. Matsushita, U.S. Customs-Honolulu Office, the concensus seems to be that harm sheong mui falls within the category of "plums, soaked in brine and dried" for purposes of H.R. 2278.

If our understanding of H.R. 2278 is correct such that harm sheong mui are, in fact, "plums soaked in brine and dried," we would support the passage of H.R. 2278 to amend the Tariff Schedules. However, we do oppose that portion of the Bill which would make the amendment retroactive to any period prior to its passage.

YICK LUNG CO., INC.,
Honolulu, HI, June 24, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: This statement is made by and on behalf of Yick Lung Co., Inc., a Hawaii corporation whose principal place of business is at 580 Dillingham Boulevard, Honolulu, Hawaii, 96806, and whose telephone number is (808) 841-3611.

Yick Lung Co., Inc., manufactures, packages and distributes preserved fruits such as mangoes, ginger, lemons and plums and other items in the United States and abroad. As a substantial part of its business, it imports, packages and sells prepared and preserved plums.

With regards to Bill Number H.R. 2278 (Rc: H.R. 4353), we feel that this bill was initially proposed under false pretenses. When we were first called by a member of the U.S. Department of Commerce regarding this proposal, he indicated that the company (Jade Food Products, Inc.), that proposed this bill was not in direct competition with our company since it produced "50% candies" and preserved fruits in bulk which it sold to markets in California. However, we know that this company is in fact, in direct competition with our company, and their displays, in many stores, are located adjacent to our displays.

With this in mind, we resent the fact that our competitor, Jade Food Products, Inc., could so easily have a bill such as this, introduced on their behalf without sufficient notification to us, when they are in reality, one of our biggest competitors.

In addition to this, a final decision on this matter, based on such limited facts presented only by Jade Products, would concurrently effect not only us, but also, many other local plum importers, like Kam's, Wing Coffee Co., etc., who are obviously not aware of this biased request. In fact, we feel you should solicit the opinions of these other businesses and inform them of this pending tariff bill.

Basically, all this tariff will accomplish, if it is passed by your committee accepting such limited and biased information from one point of view, is that it would create an atmosphere of monopoly, in respect to the tariff on such a particular and isolated product, namely "plums," which is probably the ulterior motive of the persons initially instigating the proposal of this bill.

Therefore, if this bill is passed, without any further investigation, it will only encourage our major competitor to survive and inadvertently kill our business after 85 years of doing business. Is this what you would call, "Fair Business Practices?".

To give you some background, our Founder (Father/Grandfather), started this business 85 years ago, since 1900. He saw a need to create and supply the community, especially during the war, with fruits. So, he devised a method of preserving fruits for long periods of time without waste. As time went along, when his sons inevitably took over the business, they found it necessary to import the preserved fruits from the orient, mainly because of the complicated process involved in manufacturing the countless varieties of preserved fruits.

We have managed to build a successful business in this manner over the last 85 years, and only now, after our most biggest competitor on the market, sees fit to instigate such a tariff on only the preserved "plum," do we feel insulted and that they have no right to dictate the conditions for us to stay in business.

If you are to consider Jade Products and the jobs of their 20 employees, then it is only fair that you be aware that we at Yick Lung have not only been in business for 85 years, but we have the responsibility of approximately 40 employees (twice as much as Jade), some of whom have worked with us for over 26 years.

The main issue is that, in the original proposal H.R. 4353, page 83, first paragraph, our competitor claims that, "The imported supplies are shipped dried from the supplying country after having been soaked in salt brine to prevent spoilage in transit. The imported plums are soaked in water by the domestic manufacturers, which both rehydrates the fruit and removes salt, before processing to add appropriate flavorings." As far as we're concerned, we too import some products and package them as is, and yet, there are other varieties to which we do add other sauces and natural ingredients to enhance the flavoring of the items.

So, for Jade to claim that they "rehydrate" all of their plums is a statement of which we would find necessary to challenge. Evidently, we both do bring in plums in various degrees of processing, and to generalize the tariff bill to isolate a few plums according to the different degrees of processing procedures, would definitely be unfair. We are sure that they too, package some of the imported plums "as is", without further processing, unless they can prove ALL plums to be otherwise, "process free".

We are in business to stay in business, and we need the considerable support of your committee, to eliminate these adversities and to be able to continue to serve our community.

Much of the statement made by Jade, seems to serve as a contradiction to the basic fact that competition is the main basis of which "Free Enterprise" was based upon. We find it ironic and uncalled for, for our competitor to challenge the most popular item of our line, of which we were the first to establish and for which we are greatly considered to be one of the most respectable and popular local business concerns of all Hawaii. Our reputation is irrefutable and we pride our integrity.

The passing of this bill would put us at a competitive disadvantage. We have been doing business with Asia for over 80 years, and to pass this bill will force us to change our procedures and trade relations. Does that mean that we too, because of the extra cost of the tariff be forced to, "move to Asia"?

Consequently, we both (Yick Lung and Jade Products), bring in the same products. What must be considered, is the true definition of a "salted-dried plum". Considerably, all plums are basically soaked in brine and dried in the same process to be preserved. Nevertheless, whether Yick Lung or Jade decide to sell the product as a "finished product" or if we (Yick Lung or Jade) decide to enhance the flavor with different sauces, after receiving the plums processed in Asia, is, completely up to the company to assume as part of its expense.

Like Baskin-Robbins, we in the preserved fruit business have a huge variety of prepared "salted and dried plums". At this point, we must insist, if this bill persists, that a particular plum and/or plums, be named, since there are over 20-30 different kinds of preserved fruits to be taken into consideration. To label "plums" in gener-

al, would be impossible, since we at Yick Lung and Jade, tend to have special names for each processed fruit variety.

So, as a whole, we all may not be comparing "apples with apples", instead, we may be talking, "apples and oranges". And, it is a known fact, that all of you in the committee would have a problem trying to decipher the different varieties without any previous knowledge of the product itself.

Yick Lung Co., Inc., presently imports lines of preserved mangos, lemons and ginger which have been classified under the generalized system of preferences/Form A (hereinafter "GSP") which provides for their import duty free under certain conditions. The GSP system was designed in part to assist lesser developed countries in the exportation to the U.S. of certain items. We feel that the GSP system shoud apply to the importation of plums, thereby making it consistent with the treatment of such other preserved fruits.

Consequently, in support of the deduction that the U.S. Customs Service has unilaterally imposed a 17.5 percent ad valorem rate on the plum, only indicates to us that they are fully aware that Jade and Yick Lung are both importing the same type of product. And, however way, we as manufacturers decide to treat such product upon its' arrival from Asia is more or less left to our discretion.

Apparently, Jade has been enjoying an advantage from the price differential over the past few years, however, now that we are aware of the reason how they have been able to drop their prices and have literally created a "price war" with us, we are not going to condone this. You must realize that, we were not aware, prior to this bill being introduced, that Jade was paying only 2¢ per lb. claiming raw product. This explains the price disadvantage we had over the years.

In conclusion, we suggest that if All plums were tariffed at the same amount for all of us in the same business or not at all, like other fruits, whichever could be agreed upon, then you could eliminate any/all future problems concerning this matter. Besides plums, our competitor also imports, like us, other fruit items such as ginger, lemons, mangos, cherries, etc., which are all tariff free at this point. We would hate to see us all having to go thru this similar situation again for each individual item. In the long run, if this should happen, it could be an endless, as well as a ridiculously expensive experience for us all.

Why pick on plums? Why are all other fruits like ginger, Cherries, Mangos, Lemons, etc., not tariffed, and only plums are?

In summation, we will support the bill if we both (Yick Lung and Jade) would qualify for the same lower tariff and we are all treated fairly in determining so. On the other hand, we will obviously oppose the bill if Jade qualifies for the lower and we are penalized with the higher tariff and are thus treated unfairly.

We would appreciate you taking your time to look over the enclosed copies of all previous correspondance concerning this matter. If you have any questions or need more information, please feel free to contact us and to keep us abreast of any new development in handling this situation.

We greatly appreciate your time and patience.

Respectfully submitted.

FREDERICK K.S. YEE,
President/CEO.

GERTRUDE C. YEE,
Corporate Secretary/Treasurer.

PATRICIA Y. CHING.
Credit Manager/Director.

[Attachments have been retained in the committee files.]

H.R. 2298

To suspend until the close of June 30, 1989, the duty on certain bicycle parts

H.R. 2350

To suspend until the close of June 30, 1989, the duty on certain bicycle parts and to continue until that date the present treatment of bicycle component parts with foreign trade zones

See statement of American Federation of Labor and Congress of Industrial Organizations under H.R. 821.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 2350, a bill "To suspend until the close of June 30, 1989, the duty on certain bicycle parts and to continue until that date the present treatment of bicycle component parts within foreign trade zones."

The Department of Commerce opposes enactment of H.R. 2350.

H.R. 2350 contains two principal provisions. First, it would continue until June 30, 1989, with minor modifications, the present duty suspension for bicycle parts not produced in the United States. Second, it would continue the restriction, enacted in the Trade and Tariff Act of 1984, on foreign trade zone status for bicycle parts.

We have no objection to the provisions of H.R. 2350 which continue the duty suspension on certain bicycle parts. These provisions add to the duty suspension list some other parts which are not available domestically. This duty suspension, which expires June 30, 1986, enables U.S. producers to compete with imported bicycles and lowers the prices of bicycles to consumers at the retail level.

We object, however, to the provisions of the bill continuing the existing prohibition against establishment of a foreign trade zone for bicycle parts. An administrative mechanism already exists for review and authorization of foreign trade zones by the Foreign Trade Zones Board. As Congress has given the Board the authority to restrict and prohibit operations in zones or subzones which are detrimental to the public interest, the Board has sufficient authority to deny an application if it is not in the public interest or to impose restrictions on activities in foreign trade zones. Enactment of H.R. 2350 would continue an unwise precedent set by the Trade and Tariff Act of 1984, and would, in our view encourage other industries to seek Congressional intervention in the decision-making process of the Foreign Trade Zones Board.

The revenue loss resulting from enactment of H.R. 2350, based on 1984 import figures, would be approximately $6.3 million. This amount will tend to decline until 1987 as a result of the staged reduction in rates on dutiable imported parts. Enactment of H.R. 2350 will have no effect on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

AMERICAN CYCLE SYSTEMS, INC.,
Covina, CA, June 24, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: Our company manufactures hubs, handlebar stems, pedals and brake levers for bicycles at our plant in Covina, California. As a U.S. bicycle components parts manufacturer, we have consistently opposed any attempt by bicy-

cle manufactures to use the device of a foreign trade zone to avoid the legislatively mandated tariffs on bicycle parts. We have taken this position because we believe it is particularly unfair for the bicycle manufacturers to ask us to help them persuade Congress to suspend the duty on designated bicycle parts (which we have done because the parts generally are ones for which no U.S. manufacturer currently exists) and then turn around and seek to cut the average remaining tariffs in half through the administrative device of locating in a foreign trade zone.

Our company supports H.R. 2350 because it would prevent that administrative halving of tariffs on imported parts which could have been purchased from a U.S. parts manufacturer, yet it puts the U.S. bicycle manufacturers in a stronger position to compete with imports. H.R. 2350 will legislatively suspend the duty on 50 percent of imported parts, the highest percentage ever. We support this suspension, but cannot survive a 50 percent tariff reduction on top of this 50 percent duty suspension.

The current legislative status is that the tariffs on bicycles and parts are balanced. This is because existing duty suspension legislation (42 percent by dollar volume of imported parts), together with tariffs averaging 11 percent on parts and 5.5 percent on most bicycles, have resulted in tariffs which are, when applied to the total value of a completed bicycle, virtually identical. Enacting new duty suspension legislation without continuing the present treatment of bicycle parts in foreign trade zones would destroy that balance.

On behalf of our company and our employees, we urge you committee to preserve the present balance by favorably reporting H.R. 2350 as introduced.

Sincerely yours,

CHARLES W. STEPHENS, *President.*

STATEMENT OF THE BICYCLE MANUFACTURERS ASSOCIATION OF AMERICA, INC.

SUMMARY

1. BMA strongly urges the Subcommittee to support the extension of duty suspension on certain bicycle components contained in H.R. 2298 and Sections 3 through 6 of H.R. 2350.
2. The legislation extends duty suspension until June 30, 1989, and includes some additions and deletions from the existing duty suspension list to ensure that domestic component manufacturers are not adversely affected.
3. History of duty suspension:

   Congress has renewed duty suspension legislation on bicycle parts four times since 1971.

   Duty suspension legislation was necessary to avoid the bias in the Tariff Schedules of the United States against the U.S. bicycle industry in that the duty on finished bicycles was often lower than the duty on most bicycle components.

   There was no domestic production of the bicycle parts whose duties were suspended.

   Duty suspension improves the competitive position of the domestic bicycle manufacturing industry.
4. Present need for suspension of duties on bicycle parts:

   Domestic manufacturers are still compelled to rely on foreign suppliers as the source of various bicycle components that are not produced in the United States.

   Duty suspension eliminates the advantage conferred on foreign manufacturers by the fact imported bicycles are dutiable at a lesser rate than most components.

   The dramatic increase in imports of bicycle underscores the urgency of the need for duty suspension to maintain the competitive position of domestic bicycle manufacturers in the face of injurious imports.
5. Conclusion:

   The extension of duty suspension, in light of the fact that it takes into account—as have previous duty suspension bills—the presence of absence of domestic production of the relevant articles, is noncontroversial.

   BMA urges prompt consideration and expeditious approval of legislation extending duty suspension for three years.

STATEMENT

This statement is submitted on behalf of the Bicycle Manufacturers Association of America, Inc. ("BMA"), a nonprofit, voluntary trade association of domestic manufacturers, who manufacture more than 80 percent of the bicycles produced in the United States. This statement is presented on behalf of the three bicycle manufacturer members of that organization.[1]

BMA strongly urges the Subcommittee to support a three-year extension of the suspension of duties on certain bicycle parts, contained in H.R. 2298, introduced by Representative John Duncan (R-Tenn.) on May 1, 1985 and Sections 3 through 6 of H.R. 2350, introduced by Ways and Means Committee Chairman Dan Rostenkowski (D-Ill.) and Representative Chris Perkins (D-Ky.). Both bills extend until June 30, 1989, the suspension of duties on certain imported bicycle parts such as brakes, hubs and sprockets.[2] Additionally, the bills eliminate, effective on or after the 15th day after the date of enactment, duty suspension treatment on sets of steel tubing cut to exact length needed for the assembly into the frame and fork of one bicycle. The deletion is being made at the request of a domestic component manufacturer. The bills also extend duty suspension treatment to free wheel sprockets,[3] front and rear derailleurs, shift levers, cables and casings for derailleurs and bicycle chains. None of these items are currently being produced by domestic manufacturers. BMA is further requesting that the duty suspension list be amended to extend duty suspension treatment to rear hubs for free wheels, an item which was inadvertently omitted from the original draft of the legislation. It is the understanding of BMA that rear hubs for free wheels are not produced domestically.

History of duty suspension legislation

In 1971, Congress first suspended the duties on certain bicycle parts. It has subsequently renewed the duty suspension legislation four times, in 1974, 1977, 1980 and 1983.[4] During the five sessions that it considered such legislation, Congress recognized that, absent passage of a duty suspension bill, the Tariff Schedules of the United States contained an unfair bias against domestic manufacturers of bicycles. Most imported bicycles were, and continue to be, dutiable at a lower rate than most bicycle parts. This anomaly, if uncorrected by duty suspension legislation, enables foreign bicycle manufacturers to assemble bicycles abroad with foreign bicycle parts and import the complete product (including the component parts) into the United States, subject to the lower duty rate imposed on bicycles. contrast, the domestic manufacturers of bicycles must first import certain components necessary to complete the manufacture of a bicycle at the higher duty rate imposed on bicycle parts.

Without duty suspension, the Tariff Schedules, in effect, impose a penalty on the manufacture of bicycles in the United States, where costs of doing business are already significantly higher. Even the high productivity and efficiency of the United States bicycle industry cannot offset the extremely low wage rates available to bicycle manufacturers in the principal exporting nation, Taiwan. Moreover, foreign producers usually do not have to undertake expenditures for workmen's compensation, occupational safety, pollution control and a vast array of social legislation that increase the cost of doing business in this country.

In studying the bicycle industry, Congress also quickly realized that there was no domestic production of the parts whose duties were suspended by the 1971 legislation. Hence, there existed no U.S. industry that required protection through imposition of a duty on the unavailable parts. With or without the duty, domestic bicycle manufacturers are forced to buy certain foreign-made component parts. Adding an additional duty to the costs already borne by these companies simply undermines

---

[1] The three bicycle manufacturer members of BMA include Huffy Corporation, Murray Ohio Manufacturing Co., Roadmaster Corporation. BMA also has 16 associate members that manufacture components for bicycles.

[2] H.R. 2298 and Sections 3 through 6 of H.R. 2350 extend the suspension of duties on the following bicycle parts: generator lighting sets, caliper brakes, drum brakes, coaster brakes, two-speed hubs with internal gear-changing mechanisms, three-speed hubs incorporating coaster brakes, three-speed hubs not incorporating coaster brakes, click twist grips, trigger and twist grip controls for three-speed hubs, cotterless type crank sets, frame lugs, and parts of all of the foregoing, including cable or inner wire for caliper brakes and casing therefor, whether or not cut to length (provided for in TSUS item nos. 732.35, 723.38, 732.41, and 734.42). The duty suspension provisions of H.R. 2298 are also embodied in H.R. 2350.

[3] Currently only multiple free wheel sprockets are covered by duty suspension.

[4] Pub. L. 91-689 suspended the duty on certain imported bicycle parts from January 1971 through December 31, 1973. Pub. L. 93-490 extended the duty suspension through December 31, 1976; Pub. L. 95-161, through June 30, 1980; Pub. L. 96-467 through June 30, 1983; and Pub. L. 97-446, through June 30, 1986.

further the U.S. competitive position vis-a-vis foreign-made bicycles—without benefiting any other domestic industry.

Finally, the duty suspension legislation was necessary to improve the competitive position of the domestic bicycle manufacturing industry. In its report to the Congress in 1970, the Senate Committee on Finance highlighted this need to suspend duties on bicycle parts:

[This bill] is intended to improve the competitive ability of domestic producers of bicycles by temporarily suspending the duty on imports of certain bicycle parts and accessories thereby reducing their costs. . . . The temporary suspension of duty on the bicycle parts and accessories provided for in [the bill] would be beneficial to domestic manufacturers of bicycles particularly in competing with imported bicycles.[5]

Present need for suspension of duties on bicycle parts

The reasons presented in past sessions of the Congress for suspending the duty on bicycle parts are valid today. Domestic manufacturers are still compelled to rely on foreign suppliers as the source of various bicycle components that are not produced in the United States. Although the duty disparity between bicycle parts and complete bicycles has been reduced as a result of the Tokyo Round of the Multilateral Trade Negotiations, this tariff anomaly persists, and is commercially significant. Under the 1985 Tariff Schedules, most imported bicycles are dutiable at only 5.5 percent, whereas most imported bicycle parts used by domestic manufacturers to make bicycles in the United States are dutiable at a rate of 8.3 percent.[6] Thus, the Tariff Schedules disadvantage domestic manufacturers of bicycles by 2.8 percent compared to their foreign competitors. Without duty suspension, the competitive advantage conferred on overseas products by this tariff differential could effectively preclude U.S. producers from competing against foreign manufacturers.

Indeed, the need for continued suspension of the duties on parts in order to maintain the competitive position of domestic bicycle manufacturers has never been more urgent. The domestic bicycle industry remains under severe pressure from the flood of imported bicycles. It is clear that foreign producers have targeted the United States as their principal export market. In fact, imports have claimed an increasing share of the U.S. market in recent years (see Appendix A) and are approaching a position of dominance.

In 1982, bicycle imports accounted for 23 percent of the U.S. market, a sharp jump from the 1979 import penetration level of 17 percent. In 1983, the situation worsened with imports dominating 30 percent of the U.S. market in that year. Indeed, the Taiwanese increased the volume of their imports from 976,000 units during 1982 to 1.9 million units during 1983. Significantly, imports from Taiwan accounted for 71 percent of total imports in that year. Moreover, there is no relief in sight. Imports captured 42 percent of the domestic market in 1984, a 12 percent increase in a one-year period. In terms of absolute volume, imports were more than 56 percent higher in 1984 than they were a year earlier, as Taiwan alone accounted for 77 percent of total imports. Furthermore, through April 1985, total imports accounted for over 43 percent of the domestic market, growing 20 percent over the same period one year ago.

As a result of this dramatic escalation of imports, the health of the U.S. bicycle industry has deteriorated sharply. In 1984, 5.9 million bicycles were shipped by domestic manufacturers, a figure which was 32 percent below the level of 1979 and more than 6 percent below the 1983 level. This decline was especially noteworthy since the U.S. market for bicycles increased by more than 12 percent between 1983 and 1984; thus, absolutely all of the market growth, plus a portion of the market share previously held by U.S. producers, was taken by imports. Moreover, through April 1985, domestic shipments were down 10 percent over the same period one year ago. Not surprisingly, the industry's profits have declined as a result of these trends.

---

[5] S. Rep. No. 1536, 91st Cong., 2d Sess. 1, reprinted in 1970 U.S. Code Cong. & Ad. News 6115, 6116.

[6] Most bicycle parts fall within TSUS Item Nos. 732.38 and 732.41 and are assessed at a rate of 8.3 percent ad valorem. Complete bicycles, on the other hand, fall within TSUS Item Nos. 732.02-732.26 and are assessed at rates ranging from 5.5 percent to 11 percent. The vast majority of these imports fall within TSUS Item No. 732.18 ("having both wheels over 25 inches in diameter; valued over $16.66 2/3 each") and are assessed at 5.5 percent *ad valorem*. See U.S. Bureau of the Census, U.S. Imports for Consumption and General Imports, Report FT-246/Annual 1980.

Conclusion

The list of items covered by duty suspension has been periodically modified to take into account the presence or absence of domestic production of the relevant parts. Where there existed a domestic production capability for a particular item, that item would be eliminated from the duty suspension list. Thus, duty suspension has generally been treated as "noncontroversial" legislation, notwithstanding its fundamental importance to the domestic industy.

Duty suspensions on bicycle parts reflects the continuation of Congressional concern that U.S. manufacturers—when necessary—be able to obtain, free of duty, foreign-made components that are domestically unavailable. BMA urges that the Subcommittee give prompt consideration and expeditious approval of legislation extending duty suspension. Such legislation is critical to the existence of this important U.S. industry—an industry which is vital to the health and recreation of Americans everywhere.

APPENDIX A

BICYCLE STATISTICS (1975–85)

Year	Domestic shipments	Import shipments	Total shipments	Percent import to total	Taiwan shipments	Percent Taiwan shipments to total imports
1975	5,606,000	1,722,000	7,238,000	23.5	364,000	21.2
1976	6,177,000	1,653,000	7,830,000	21.1	566,000	34.2
1977	7,484,000	1,884,000	9,368,000	20.1	658,000	34.9
1978	7,492,000	1,872,000	9,365,000	20.0	780,000	41.6
1979	8,675,000	1,763,000	10,438,000	16.9	943,000	53.5
1980	6,942,000	2,048,000	8,990,000	22.8	1,005,000	49.1
1981	6,832,000	2,100,000	8,931,000	23.5	1,100,000	52.3
1982	5,070,000	1,551,000	6,621,000	23.4	976,000	62.9
1983	6,271,000	2,693,000	8,964,000	30.0	1,915,000	71.1
1984	5,863,000	4,206,000	10,069,000	41.8	3,227,000	76.7
January to April 1984	2,253,000	1,302,000	3,555,000	36.6	943,000	72.4
January to April 1985	2,030,000	1,556,000	3,586,000	43.4	1,189,000	76.4

STATEMENT OF LEWE B. MARTIN, COUNSEL, BICYCLE WHOLESALE DISTRIBUTORS ASSOCIATION

H.R. 2298 AND H.R. 2350

The Bicycle Wholesale Distributors Association (BWDA) is in support of H.R. 2298 and H.R. 2350. These bills would suspend, until the close of June 30, 1989, the duty on certain bicycle parts. In addition H.R. 2350 would continue, until June 30, 1989, the present treatment of bicycle component parts within foreign trade zones.

BWDA MEMBERSHIP

This organization is a nationwide trade association whose membership consists of approximately 50 wholesale distributor and 85 associate (supplier) members located in some 25 States. BWDA members manufacture and/or sell all kinds of bicycles, bicycle parts and accessories.

A list of the distributor members is included in Attachment A hereto.

SUMMARY

The BWDA submits this statement in support of H.R. 2298 and H.R. 2350. These bills will allow U.S. producers of bicycles to import, without duty, certain component parts of bicycles which are not produced on a commercial scale in the U.S. This duty suspension legislation is supported by BWDA because it makes U.S. produced bicycles more competitive with imported complete bicycles, as the statutory duty on which there will be a suspension in higher than the duty on most imported bicycles.

The BWDA agrees with the inclusion by Congress in the Trade and Tariff Act of 1984, of provisions which deny the use of Foreign Trade Zones (FTZ) for the purpose

of assembling bicycles with imported components. H.R. 2350, in addition to extending the duty suspension provisions for importation of certain component parts for bicycles, also extends the prohibited use of FTZ for the assembly of bicycles using imported components from June 30, 1986 to June 30, 1989. This action aligns the tariff treatment of duty suspended items and use of dutiable items in a FTZ in the same time frame. All segments of the domestic bicycle industry should benefit from the knowledge that this part of the U.S. tariff system will not be revised for another four years.

The hoped-for result will be a successful production of bicycles in the United States which will support the continued domestic manufacture of component parts for bicycles. Such domestic production will serve to ensure a continuity of supply of replacement parts distributed by BWDA members.

ATTACHMENT A

DISTRIBUTOR MEMBERS, BICYCLE WHOLESALE DISTRIBUTORS ASSOCIATION

Allied Cycle Distributors, Inc., Waltham, MA 02254-0430
F.A. Baker Co., Inc., Maspeth, NY 11378
Bike Brokers N. Ft. Myers, FL 33903
John T. Bill Co., Glendale, CA 91205
R.H. Brown Co., Seattle, WA 98114
Columbus Cycle, Columbus, OH 43216
Cuthrell's Inc., Norfolk, VA 23510
Detroit Cycle Supply Co., Detroit, MI 48201
Eastern Cycle Supply Co., Inc., Worcester, MA 01603
Everything Bicycles, Compton, CA 90220
Herbert L. Flake Co., Inc., Houston, TX 77087
Howard W. Georger Co., Inc., Buffalo, NY. 14227
Harbor Distributors, Chicago, IL 60622
Robert D. Heaton Co., Fremont, CA 94536
Hans Johnsen Co., Dallas, TX 75247
Arizona Bicycle Wholesales, Tempe, AZ 85281
Bauer Cycle Supply Inc., Minneapolis MN 55401
Bike Rack Inc., Hauppauge, NY 11787
Bridgestone Cycle (U.S.A.), Inc., San Leandro, CA 94577
Clayton Cycle Co., St. Louis, MO 63118
Crandall-Hicks Co., Ashland, MA 01721
Cycles Peugeot, U.S.A. Inc., 555 Gotham Parkway
District Cycle Supply Co., Inc., Beltsville, MD 20705
T. Eki, Inc./Eki Cyclery, Honolulu, HI 96817
Farber Cycle Inc., Troy, MI 48084
Fridrich Bicycle Inc., Cleveland, OH 44113-3786
Gordon Cycle Supply Inc., Cleveland, OH 44108
Hawaii Bicycle Supply Co., Waipahu, HI 96797
Island Cycle Supply Co., Minneapolis, MN 55423
Leeworld Co., Inc., Gardena, CA 90248
Louisville Cycle & Supply Inc., Louisville, KY 40214
The Merry Sales Co., San Francisco, CA 94103
Emilio Mulero Inc., Caguas, Puerto Rico
James A. O'Brien & Sons Inc., New Haven, CT 06511
Pacific Cycle Sales Inc., Yakima, WA 98907
Mel Pinto Imports, Inc., Falls Church, VA 22042
Rite-Way Products Inc., Brea, CA 92621
Service Cycle Supply Corp., Commack, NY 11725
Walthour & Hood Co., Atlanta, GA 30301
Western States Import Co., Inc., Newbury Park, CA 91320
Wisconsin Cycle Supply Co., Inc., Sheboygan, WI 53081
Robert M. Mashock Associates, Philadelphia, PA 19136
Moore's Cycle Supply, Oklahoma City, OK 73106
North America Tradimpex Corp., Melville, NY 11747
Olympic Supply Co., Milwaukee, WI 53218
Pettee Cycle Supply Co., Englewood, CO 80110
Quentin Distributors Inc., Glen Ellyn, IL 60137
Schwinn Bicycle Co., Chicago, IL 60639
Velo Sport Imports, Durham, NC 27705
West Coast Cycle Supply Co., Culver City, CA 90230
Wilson Bicycle Sales Inc., Union City, CA 94587

STATEMENT OF JOHN L. KIEHL, VICE PRESIDENT, CARLISLE TIRE & RUBBER CO.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

1. Carlisle Tire & Rubber Company is the largest sole producer of bicycle tires and tubes in the United States of America. It has lost significant market share to low priced imports, mostly from Taiwan. In the last five years, approximately 400 production employees have lost their jobs at Carlisle Tire & Rubber, due to competition from Far East producers of bicycle tires and tubes.

2. Carlisle is supportive of H.R. 2350. We feel that without the total protection this bill offers that the remaining jobs in bicycle tire and tube production may be in jeopardy. While Carlisle can support H.R. 2298 and H.R. 2226, these bills only address part of the problem. The best vehicle to maintain the delicate balance that has been established over the past 15 years in the bicycle parts and manufacturing industry is H.R. 2350.

STATEMENT

Carlisle Tire & Rubber Company is the last American manufacturer of bicycle tires and tubes. It has been the sole domestic producer of such products for approximately the last ten years and without the adoption of H.R. 2350, domestic production of bicycle tires and tubes may very soon cease entirely.

Carlisle is a member of the Cycle Parts & Accessories Association, Inc. (C.P.A.A.), and as such supports the positions put forth in the statements filed by the C.P.A.A. in reference to bills H.R. 2350, H.R. 2226 and H.R. 2298. The C.P.A.A. statements deal with the bicycle parts industry as a whole; however, we think Carlisle's experience amply demonstrates the need for legislative intervention for the protection of American bicycle parts manufacturers.

Carlisle has been producing bicycle tires and tubes for over thirty-five years. Less than five years ago it could claim to supply over 25 percent of all original equipment tires and tubes for bikes manufactured in America, and over 20 percent of the replacement market. Carlisle can now claim only 4.7 percent of the original equipment sales and only 6.9 percent of the replacement market. Obviously, Carlisle has not lost market share to any other domestic producer because there is none. It has been imports, mostly from Taiwan and some from Korea, that have taken market share from Carlisle.

Carlisle's deteriorating position in the market can be related strictly to one reason . . . price! Our product is as good, if not better, than the imports. Our service and delivery is better than the imports. Our manufacturing facility is modern and our non-union work force is efficient. However, bike manufacturers and mass merchandisers look to purchase bicycle tires and tubes as inexpensively as possible. Carlisle has been faced with foreign competition that quotes prices for product delivered in the United States at a level less than our factory cost.

We, at Carlisle, have taken many steps to compete fairly with competition from the Far East. We have invested, as much as good business judgment will allow, in our production facilities. We have had aggressive sales campaigns and sell our product with a limited lifetime guaranty. We have introduced innovative new products, yet we continue to lose market share to low price imports.

In addition to the above, Carlisle has actively pursued its legal remedies against unfair import competition, since the early 1970's. The former President of Carlisle Tire & Rubber testified before Congress in the early 1970's, when competition from Japan was strong and the duty suspension bill was in its early years. Later, in 1977, Carlisle filed a Section 301 Escape Clause petition before the International Trade Commission (I.T.C.). The I.T.C. recommended an increase on the the import duty on tires from 5 percent to 15 percent and on tubes from 15 percent to 25 percent, as it found Carlisle was being seriously threatened by imports. However, former President Carter, for strictly political reasons, rejected the recommendation of the I.T.C., thus leaving Carlisle without the much needed relief it sought so desperately.

In early 1984, an anti-dumping order went into effect with respect to bicycle tires and tubes from Taiwan. However, this was the end result of an anti-dumping petition filed by Carlisle over six (6) years earlier! By the time Carlisle achieved this result, we had lost a major contract with the Huffy Corporation and were on the verge of losing another major contract with Murray Ohio Manufacturing Corporation. Huffy Corporation and Murray Ohio Manufacturing Corporation are two major

American bicycle manufacturers. Until recent years, Carlisle was a major supplier to Schwinn and now that business is gone also.

The effects of this competition are devastating. The following chart demonstrates the loss of employment at our factory in Carlisle, Pennsylvania, over the past five years:

Average number of workers employed in production of bicycle tires and tubes

Year:	
1980	467
1981	399
1982	245
1983	445
1984	158
1985 (June)	68

This chart shows that Carlisle has 399 less workers employed today in its bicycle tire and tube operations than it had five years ago. This is a reduction in force of approximately 85 percent. In 1980, Carlisle produced 7,341,000 tires and 8,032,000 tubes for use on bicycles. Today, we are producing at a rate of approximately 1,300,000 tires per year and 1,800,000 tubes per year. Obviously, this is a drastic reduction.

We at Carlisle feel that the protection afforded in H.R. 2350 is the best approach to the bad situation that the bicycle parts industry is presently facing. In an effort not to be repetitious, we respectfully refer the Committee's attention to the statement filed by the C.P.A.A. which has an excellent account of the history behind H.R. 2350 as it is presented in light of past duty suspension bills and P.L. 98-573. The adoption reserves the status quo on duty suspension and the treatment of bicycle parts in foreign trade zones. Certainly, it is clear that Carlisle is deserving of such protection.

Carlisle is supportive of H.R. 2298, in that it will leave the duty suspension in place for bicycle tires and tubes. However, without the added protection afforded by the provisions of H.R. 2350 with respect to the treatment of parts in foreign trade zones, the domestic bike producers will only be encouraged to import parts into foreign trade zones for manufacture and domestic sales, because of the inverted duty rates that apply to parts versus finished bikes.

Lastly, Carlisle is also supportive of H.R. 2226, as it will afford some protection to Carlisle; however, we feel the best vehicle for preservation of the domestic bicycle industry is H.R. 2350.

STATEMENT OF ROBERT AUERBACH, COUNSEL, CYCLE PARTS AND ACCESSORIES ASSOCIATION, INC.

H.R. 2298

SUMMARY OF COMMENTS AND RECOMMENDATIONS

1. There is no question that duty suspension legislation is desperately needed by U.S. bicycle manufacturers; but CPAA believes that the more appropriate vehicle for such relief is H.R. 2350. Our comments in support of H.R. 2350 are attached hereto.

2. Both the U.S. bicycle manufacturers and we, their domestic suppliers, have sustained substantial injury on account of imports. Bicycle imports have captured a 42 percent share of the domestic market, up from 17 percent just six years ago. The situation is even bleaker for U.S. parts producers who have lost 75 percent of their market.

3. Many U.S. parts producers have gone out of business leaving U.S. bicycle manufacturers without a domestic source of supply. A duty rate on bicycle components no longer produced in this country does not afford any protection to U.S. parts producers and puts the U.S. bicycle manufacturers at a competitive disadvantage vis a vis the bicycle importers.

4. In recognition of this state of affairs, Congress has, since 1971, suspended the duty on bicycle parts not manufactured domestically. H.R. 2298 would continue that suspension for an additional three year period expiring June 30, 1989.

5. In 1984, approximately 42 percent of all bicycle components came in duty free and this figure is likely to rise above 50 percent under the current legislation now under consideration. As a result, on a weighted average basis, the tariff paid on im-

ported parts is approximately the same or lower than the tariff paid on imported bicycles.

6. Since 1971, this committee has adopted a fair and even handed approach to bicycle and bicycle parts tariffs. Under that approach, the duty on parts not manufactured in this country would be suspended, but the duty on domestically manufactured parts would not be tampered with.

7. For many years, that approach served both industries well. In reliance upon assurances by the domestic bicycle manufacturers that the duty rate on U.S. produced parts would not be lowered, CPAA supported the duty suspension bill each time it came up for renewal, just as it does today.

8. Unfortunately, the balanced approach taken by this committee and the past assurances received by CPAA are in danger of being compromised. In 1982, Huffy Corp., the largest U.S. bicycle manufacturer applied for a foreign trade subzone at its Celina, Ohio facility. Had this subzone been granted, the duty rate on imported parts for which there are domestic sources of supply might have dropped to as low as 5½ percent. This would have shattered the relative equilibrium in tariff rates so carefully crafted by this committee.

9. In 1983, this committee reported favorably legislation (subsequently enacted as Public Law 98-573) which would effectively preclude a U.S. bicycle manufacturer from obtaining foreign trade zone benefits except in the very limited circumstance where the finished product was exported. It took that action in order to prevent any bicycle manufacturer from accomplishing indirectly what the duty suspension bill would never allow it to do directly: Effect a duty reduction on U.S. produced parts.

10. The facts today are essentially the same as they were in 1983. Foreign trade zones and subzones continue to pose a grave threat to the future of this industry. Their only purpose is to effect a duty reduction on parts manufactured in the United States since the duty on virtually all other parts will be suspended.

11. CPAA feels that it has dealt reasonably and honorably with the bicycle manufacturers. All we seek is the same consideration in return. While we support H.R. 2298, it does not address our problem with foreign trade zones. If H.R. 2298 were enacted instead of H.R. 2350, U.S. bicycle manufacturers would have the best of both worlds: The elimination of duty on approximately 50 percent of all imported parts and a substantial reduction of duties on the balance through the foreign trade zone loophole. We feel that this would violate both the spirit and intent of the previous duty suspensions.

12. On the other hand, H.R. 2350 meets the legitimate needs of both the U.S. bicycle manufacturers and the U.S. parts producers. U.S. 2350 preserves the delicate balance between the two industries. It gives the U.S. bicycle manufacturers the relief they so desperately need while at the same time protecting the duty rate on those imported parts for which there is still domestic competition.

13. Accordingly, we urge you to report favorably H.R. 2350 as the primary vehicle for duty suspension legislation for the U.S. bicycle industry.

H.R. 2350

SUMMARY OF COMMENTS AND RECOMMENDATIONS

1. Many U.S. parts producers are forced out of business as the marketplace has been inundated by imports from the Far East. Those companies still in business have been fighting for their survival against odds that grow longer with each passing day.

2. U.S. parts producers are almost wholly dependent on a mere handful of bicycle manufacturers from whom they derive most of their sales. More and more, the domestic bicycle manufacturers are sourcing their parts requirements overseas, leaving U.S. parts producers with only fill in and emergency orders. This situation is most unhealthy for both industries. The U.S. bicycle manufacturing industry cannot survive without a strong and healthy domestic parts industry; and with factories designed for mass production of quantities in the millions, the U.S. parts industry cannot survive on fill in orders alone.

3. Last year, 42 percent of all imported bicycle components came in duty free by virtue of the duty suspension bill now up for renewal. Almost $750 million worth of bicycle components have entered duty free since the duty suspension was first enacted in 1971.

4. Employment in the U.S. parts industry is down 49 percent over the most recent five year period. U.S. parts producers now account for less than 25 percent of their own market, the rest having been taken over by imports.

5. The U.S. bicycle manufacturers face a similar situation. Domestic production has fallen and imports have risen to the point where they now command 42 percent of the market, up from 17 percent just six years ago. Employment in the bicycle manufacturing industry and the financial performance of U.S. bicycle manufacturing experienced similar declining trends.

6. H.R. 2350 has two objectives. First, it would continue in effect legislation having its origin in 1971 suspending the duty on bicycle parts no longer manufactured in the U.S. Second, it would continue in effect legislation enacted in the last congressional session which prevents U.S. bicycle manufacturers from using foreign trade zones and subzones as a device to cut tariffs on bicycle parts that are still made in this country, except in the limited circumstance where the finished product is exported. Thus, the first objective addresses the needs of the U.S. bicycle manufacturers while the second objective addresses the needs of the U.S. parts producers. H.R. 2350 represents a fair balancing of the interests of both industries.

7. The duty suspension bill, first enacted in 1971, was renewed in 1974, 1977, 1980 and 1983. At the time of each renewal, adjustments were made in the list of bicycle parts covered by the legislation, always depending upon whether or not there was a domestic source of supply. The current measure before this committee contains more bicycle components than ever before in the entire fifteen year history of this legislation, reflecting the fact that so many parts producers have gone out of business.

8. The duty suspension bill aids U.S. bicycle manufacturers by reducing their costs for imported components not available in this country. Since the U.S. bicycle manufacturers must obtain these parts overseas in any event, the tariff on them serves no protective purpose and only adds to their costs, making them that much less competitive with the importers. Accordingly, CPAA supports a continuation of the duty suspension bill, as embodied in H.R. 2350.

9. In consideration for CPAA's support of the duty suspension bill in 1971, 1974, 1977, 1980 and 1983, it received assurances that the duty on those remaining parts still produced in this country would not be tampered with. That was the understanding and both sides lived by it in industry peace and harmony for fifteen years. Today, through a backdoor loophole in an obscure federal program, there is a real and present danger that this understanding may be compromised.

10. Through the device of a foreign trade zone or subzone, the cost of imported bicycle components would immediately drop in two ways. First, it would drop because manufacturers could pay duty at the lower finished bicycle rate. For example, the duty would drop by more than 50 percent of imported parts assembled on lightweight bicycles! Secondly, in a foreign trade zone or subzone the duty would only be paid when the bicycle is shipped. This would encourage bicycle manufacturers to hold larger inventories of imported components for longer periods of time and thereby cut into the last area where U.S. parts manufacturers have a slight competitive advantage over importers.

11. If a single bicycle manufacturer obtains a subzone, the others will have no choice but to follow suit. In an industry where pennies often make the difference between a sale or no sale to a mass merchant account, no bicycle manufacturer could possibly suvive without a foreign trade subzone if its competition had one.

12. For CPAA to pursue its administrative remedies before the Foreign-Trade Zones Board would be an exercise in futility. In the fifty odd years that it has been administering the Foreign-Trade Zones Act, the Foriegn-Trade Zones Board has never denied on the merits an application for a foreign trade subzone! In our numerous oral and written communications with the agency's staff, absolutely nothing leads us to believe that a bicycle manufacturer would be the first exception.

13. Along with other government officials and industry leaders, CPAA is highly critical of the manner in which the Foreign-Trade Zones Board operates. It has a skeleton staff. It wields enormous power with few, if any, checks and balances. Our statement provides just one example of how the Foreign-Trade Zones Board handled a critical aspect of the case involving the subzone application of Huffy Corp. Suffice it to say that there is ample justification for our lack of confidence in the administrative process.

14. Nor would an administrative victory against one bicycle manufacturer preclude from filing subzone applications. This beleagured industry does not have the financial wherewithal to do battle with each bicycle manufacturer who sees fit to apply for a subzone. It's also bad business since, after all, the bicycle manufacturers are our members' major customers.

15. That in essence is why temporary legislative relief was sought and obtained. The relief was embodied in public law #98-573 and it sunsets coterminously with the duty suspension bill, ie. June 30, 1986. The fact that both measures sunset on

the same date was neither accident nor coincidence. Since both relate to the duty rates on bicycle parts, they should properly be considered together, as in H.R. 2350, rather than in piecemeal fashion.

16. At the prompting of Representative Sam Gibbons, both the General Accounting Office and the International Trade Commission conducted investigations of the Foreign-Trade Zones Program. Both studies were completed last year and they offer stunning confirmation of our worst fears about the Foreign-Trade Zones Program. Indeed, they make a compelling case for generic legislative relief. The highlights of the ITC and GAO studies are set forth in the text of our comments.

17. But until Congress grapples with the more weighty issues involving the Foreign-Trade Zones Program, H.R. 2350 provides some stopgap relief. It preserves the status quo. It is drafted narrowly to cover only this industry and not to interfere with any actions taken or comtemplated with respect to other industries.

18. Congress should not stand by blindly while an entire domestic industry is ground up in the machinery of a bureaucracy that is out of control. This is truly a classic situation where Congress should step in. All that H.R. 2350 does is prevent any bicycle manufacturer from accomplishing indirectly what the duty suspension bill would never allow it to do directly: Effect a duty reduction on U.S. produced parts.

19. Both the domestic bicycle manufacturing and bicycle parts industries are very competitive, depressed and import sensitive. Congress carefully balanced the import sensitivity of each industry by imposing tariffs on bicycle parts which are calculated, on a weighted average basis, to give preference neither to imported bicycles nor to imported parts. This balance now allows 42 percent of the dollar volume of imported parts, most of which are used on domestic lightweight bicycles, to be imported duty free. As a result of the most recent round of multilaterial trade negotiations, the tariffs on bicycle parts have been and will continue to be substantially reduced. In 1980, most imported bicycle parts (other than duty suspended parts) were subject to a tariff of 15 percent. Most are now 11.7 percent reducing to 10 percent by 1987. These scheduled reductions provide further substantial relief for the bicycle manufacturers. Meanwhile, CPAA members are using the time provided by these phased reductions to continue their efforts to modernize their plants, improve their technology and become more efficient.

20. The U.S. Trade Negotiators had the authority to reduce our tariffs by 60 percent. Because they fully understood the import sensitivity of our industry, they concluded that a 33 percent reduction phased in over seven years would be as far as they could go without destroying the domestic bicycle parts industry.

21. Through the device of a foreign trade subzone, any bicycle manufacturer could subvert the intent of Congress with respect to the Foreign-Trade Zones Act, undermine the hard fought efforts and reasoned conclusions of our multilateral trade negotiators and upset the delicate balance which this committee has enforced regarding tariffs on bicycle parts.

22. In conclusion, H.R. 2350 offers a balanced approach to the tariff needs of the U.S. bicycle manufacturers and their domestic suppliers. If enacted, it would enable U.S. bicycle manufacturers to import duty free the largest percentage of bicycle parts in the history of this legislation. Yet it preserves the duty rate on those manufacturers from obtaining a reduction through the device of a foreign trade zone or subzone. This legislation thus meets the needs of both industries. We urge you to report H.R. 2350 favorably without delay.

STATEMENT

Condition of the domestic bicycle parts industry

The Cycle Parts and Accessories Association ("CPAA"), located in New York City, is a national trade association whose membership comprises the leading U.S. producers of bicycle components. There are now approximately twenty of these companies, although as recently as five years ago, the figure was substantially higher.

Many old and proud companies have been forced to withdraw from the business as the U.S. marketplace has been inundated by imports from the Far East. This market condition has prevailed for quite some time. Many companies have been hanging in there with the hope that the bicycle industry would be bootstrapped by a stronger domestic economy. Nobody expects a return of the good old days when "bicycle boom" demand generated huge orders for U.S. parts makers. But many do feel, however, that a certain level of prosperity is attainable as the economy continues to improve. But for those several companies which threw in the towel during the recent period of hard times for this industry, their fate has already been determined.

Words cannot fully express the devastating injury sustained by the U.S. bicycle parts industry. Exhibit A is a membership roster of the CPAA published just seven years ago. It's hard to believe how many companies have gone out of the bicycle business in such a short period of time. Those remaining are fighting for their survival against very uncertain odds.

The U.S. parts producers are almost wholly dependent on a mere handful of bicycle manufacturers from which they derive a substantial portion of their sales. More and more, these large bicycle manufacturers are looking overseas for their long time requirements leaving the domestic producers with only fill in and emergency orders. They contend that we are no longer price competitive with the Far East which to some extent is true because of the inflated value of the U.S. dollar and the low wage scales prevailing in that region of the world.

The bicycle manufacturers have every right to act in their own self interest. They would agree, however, that the current situation is unhealthy and unstable and, in the long run, may make them more vulnerable. Their increasing proclivity to source their requirements abroad and to treat us as suppliers of last resort will ultimately work to their own self destruction and that of the industry as a whole.

The U.S. bicycle manufacturing industry cannot survive without a strong and healthy domestic parts industry, and the U.S. parts industry cannot survive on fill in order alone. Our factories are designed for mass production of quantities in the millions. Many of our members' factories are operating at only a fraction of capacity. Some are shut down and their workers have been placed on indefinite layoff. This situation cannot last forever.

In their relentless search for lower cost components, U.S. bicycle manufacturers "source the world." According to statistics from the United States Department of Commerce, more than thirty nations are presently enjoying the fruits of our market. Each day, giant container ships laden with bicycle parts produced overseas enter our ports and harbors. Last year, fully 42 percent of all imported bicycle components came in duty free by virtue of the duty suspension bill now up for renewal. Almost $750 million worth of bicycle components have entered duty free since the duty suspension bill was first enacted in 1971.

Although Japan, Taiwan and Korea remain the dominant suppliers, virtually any country can find its own niche in this large and receptive market. Aided by Japanese capital and technology, but not hampered by high wage rates, virtually every country bordering on the Asian seaboard is now shipping bicycle parts to the United States. Even the Peoples Republic of China is gearing up to exploit this opportunity and looms as a major future threat.

A recent poll of our members indicated that industry employment is down 49 percent over the most recent five year period. For certain companies, the decline in employment was substantially higher, in the range of 75 percent! As a result of these serious developments, our market share has dwindled to less than 25 percent!

Condition of the domestic bicycle manufacturing industry

The U.S. bicycle manufacturers are facing a similar dire situation. In 1982, finished bicycle imports accounted for 23 percent of the U.S. market, a sharp jump from the 1979 import penetration level of 17 percent. In 1983, the situation worsened with imports dominating 30 percent of the U.S. market in that year. Indeed, the Taiwanese increased the volume of their imports from 976,000 units during 1982 to 1.9 million units during 1983. Significantly, imports from Taiwan accounted for 71 percent of total imports in that year.

By 1984, bicycle imports captured 42 percent of the domestic market, an excessive 12 percentage point increase in a brief one year period. In terms of absolute volume, imports were more than 56 percent higher in 1984 than they were a year earlier, as Taiwan alone accounted for 77 percent of total imports. Furthermore, through March 1985, the most recent period for which statistics are available, total imports accounted for over 45 percent of the domestic market!

As a result of this dramatic escalation of imports, the health of the U.S. bicycle industry has deteriorated sharply. In 1984, 5.9 million bicycles were shipped by domestic manufacturers, a figure which was 32 percent below the level of 1979 and more than 6 percent below the 1983 level. This decline is especially noteworthy since the U.S. market for bicycles increased by more than 12 percent between 1983 and 1984; thus, absolutely all of the market growth, plus a portion of the market share previously held by U.S. producers, was taken by imports. Moreover, during the first four months of 1985, domestic shipments were down 11 percent over the same period a year ago.

Employment in the bicycle manufacturing industry has also declined significantly as a result of these import trends. Production worker employment among bicycle

manufacturers alone in 1983 was 20 percent below the level of 1981. In 1984, the level of production worker employment was more than 18 percent below the level of 1983.

As with U.S. parts producers, the financial performance of U.S. bicycle manufacturers has also been adversely affected by the recent import surge. A survey prepared by the U.S. International Trade Commission, even before the major import assault began in 1983, showed a net sales decline of 16 percent between 1980 and 1982, coupled with a decline in operating income of 6.4 percent in 1980 to 0.8 percent in 1981 and an operating loss of −1.6 percent in 1982.

Although no additional industry wide data is available, recent reports issed by the two largest and only publicly owned U.S. bicycle manufacturers demonstrate that this bleak profit picture is continuing. For example, Huffy Corp., Dayton, Ohio, the largest U.S. producer reported that its total sales for the second half of 1984 were down about 3 percent with fourth quarter 1984 sales down by 7 percent and total corporate earnings in the quarter 40 percent below the level of the same quarter in 1983. Similarly, Murray Ohio Mfg. Co., Brentwood, Tennessee, reported a pretax loss of $3.4 million on its bicycle operations in 1984, compared to pretax earnings of $6.6 million in 1983, as bicycle sales fell by 19 percent. This was the first yearly recorded loss by this company on its bicycle operations. Both companies have acknowledged that low priced bicycles imported from Taiwan are the principal cause of this declining profit picture.

It is thus apparent that both the U.S. bicycle manufacturers and we, their domestic suppliers, are in desperate need of corrective legislation to reverse a trend that threatens our very survival. There are three pieces of legislation before this committee that would accomplish this to a greater or a lesser extent. Our comments here are limited to H.R. 2350, a bill which would suspend until the close of June 30, 1989, the duty on certain bicycle parts and continue until that date the present treatment of bicycle component parts within foreign trade zones.

CPAA supports H.R. 2350. We believe it strikes a fair balance between the legitimate needs of both industries. The bicycle manufacturers desperately need a continuation of the duty suspension on certain bicycle parts no longer manufactured in the United States just as we, their suppliers, need a continuation of the present treatment of bicycle parts within foreign trade zones. A brief history of each provision will help the committee to better understand the present situation.

History of duty suspension bill

In 1970, Representative Fulton of Tennessee first proposed the duty suspension bill for bicycle parts. Public Law 91-689, commonly known as the "Fulton Bill", created two duty free categories in the tariff schedules, TSUS items 912.05 and 912.10, which then encompassed nine parts: Generator lighting sets, derailleurs, caliper brakes, drum brakes, three speed hugs incorporating coaster brakes, three speed hubs not incorporating coaster brakes, click twist grips, click stick levers and multiple free wheel sprockets. These duty free categories were extended for an additional three year period in 1974 by Public Law #93-490.

In 1977, legislation sponsored by Representative Dan Rostenkowski, Public Law 95-161, extended the duty suspension until June 30, 1980. That bill deleted derailleurs, due to the emergence of a domestic source of supply, and added coaster brakes, cotterless type crank sets, rims and certain frame tubing to the duty free categories. The legislation also provided duty free treatment for parts of the items appearing in TSUS 912.10.

Representative Rostenkowski again sponsored the extension of duty free treatment in 1980. That legislation, Public Law 96-467, deleted "rims" from the category and inserted "frame lugs" and "two speed hubs with internal gear changing mechanisms."

In 1983, the duty suspension bill was extended for an additional three year period. Once again, there were various adjustments in the list of components covered. "Click stick levers" were deleted because there was a domestic source of supply. The item, "trigger and twist grip controls for use with three speed hubs", was added to the duty suspension bill of 1983.

The current measure before this committee contains more bicycle components than ever before in the entire fifteen year history of this legislation. Once again, derailleurs, a high ticket item, have been restored to the duty suspension list since this product is no longer manufactured in the United States. Bicycle chains have also been added for the first time. All free wheel sprockets will now be duty free, not just multiple free wheel sprockets. Finally, parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for

the assembly (with other parts) into the frame and fork of one bicycle" has been deleted since there is now a domestic source of supply.

Although the addition and deletion of bicycle parts through the years may appear to be haphazard, that is hardly the case. The acid test has always been, as it should be now, whether or not there is a domestic source of supply for the product in question. If there is no domestic source of supply, levying a duty on the product does not confer any measure of protection to the U.S. parts industry and only adds to the cost for U.S. bicycle manufacturers.

There are thus two basic reasons for the duty suspension bill: To eliminate duties which do not serve any protective purpose and to improve the competitive posture of American bicycle manufacturers vis a vis the importers.

The primary purpose of tariffs is to offer some measure of protection to American industries. The revenue impact is relatively minor compared to other taxing sources. In the case of H.R. 2350, only those parts which have no domestic sources of supply have been included. U.S. parts manufacturers would not be protected by the imposition of tariffs on these parts.

In the absence of domestic sources of supply, tariffs are directly detrimental to both American bicycle manufacturers and their suppliers. It seems pointless to assess duties on parts, and hence raise the cost of the bicycle to manufacturers when the manufacturers are compelled to purchase parts from abroad anyway. Whether H.R. 2350 passes or not, the bicycle manufacturers will still be forced to purchase these parts from foreign suppliers. The effect of the imposition of tariffs on these items is very direct. It increases the cost of the bicycle and hence its price. This has a very direct impact on U.S. bicycle manufacturers and indirectly upon us, their suppliers. Accordingly, CPAA supports a continuation of the temporary suspension of duties on certain parts no longer manufactured in the United States.

The linkage with foreign-trade zones

CPAA has always dealt reasonably and honorably with the bicycle manufacturers. Our members have repeatedly offered their support for the duty suspension bill, as we do now. In consideration for this support, CPAA received assurances that the duty on those remaining part still produced in this country would not be tampered with. That was the understanding and both sides lived by it in industry peace and harmony for fifteen years.

Today, through a backdoor loophole in an abscure federal program, there is a real and present danger that this understanding will be violated by one or more of the U.S. bicycle manufacturers.

This "loophole" was first brought to our attention in 1982 when Huffy Corp., the nation's largest bicycle manufacturer, applied for a foreign trade subzone at its Celina, Ohio facility. Although Huffy was the first such applicant, it was abundantly clear that all other bicycle manufacturers would have to follow suit if they were to stay competitive.

With foreign-trade subzones, the cost of imported bicycle components would immediately drop in two ways. First, it would drop because manufacturers could pay duty at the lower finished bicycle rate. The current duty rate on most bicycle components is 11.7 percent. The rate on a finished lightweight bicycle is only 5.5 percent. Thus, a bicycle manufacturer in a foreign trade subzone could import a pedal, assemble it on a lightweight bicycle, and then pay only a 5.5 percent duty on the value of that pedal. This then is the primary attraction of foreign trade zones and subzones today: The circumvention of our U.S. Customs laws.

Second, in a foreign trade zone or subzone the duty would only be paid when the bicycle is shipped. This deferral of duty would encourage bicycle manufacturers to hold larger inventories of imported components for longer periods of time and thereby cut into the last area where U.S. parts manufacturers have a slight competitive advantage over importers.

Foreign trade subzones will undermine the infrastructure of the bicycle industry. Many enlightened bicycle manufacturers recognize this. However, they hasten to add that if a single manufacturer were to get a subzone, the others would immediately follow suit under a domino type theory. In an industry where pennies often make the difference between a sale or no sale to a mass merchant account, no bicycle manufacturer could possibly survive without a foreign trade subzone if its competition had one.

Alarmed by the unpleasant prospect of every major customer of ours operating within a foreign trade subzone, CPAA knew that it had to act and act fast. It immediately pursued its administrative remedies. Before they were exhausted, however, it was clear that it would be an exercise in futility. In the fifty odd years that it has been administering the Foreign-Trade Zones Act, the Foreign-Trade Zones Board

has never denied on the merits an application for a foreign trade subzone! In our numerous oral and written communications with the agency's staff, abolutely nothing led us to believe the Huffy subzone application would be the first exception.

The staff of the Foreign-Trade Zones Board wields an enormous amount of power. Its recommendations are rarely challenged by authorities above. Whether it is exercising its power responsibly is subject to debate. We have reason to be gravely concerned.

First, consider the number of staff members. To our knowledge, the staff consists of an Executive Secretary, John J. Da Ponte, Jr., an Assistant, Dennis Puccinelli, and a couple of secretaries. This organization fully supports efforts to trim the size of government but in this case, we seriously question whether the Foreign-Trade Zones Board is adequately staffed to render decisions, the impact of which may have such drastic consequences for the U.S. economy.

Consider one example of how the staff of the Foreign Trade Zones Board handled a critical aspect of the Huffy case. Because of the substantial opposition to Huffy's application, the staff of the Foreign Trade Zones Board decided to conduct an economic impact survey in order to determine whether granting Huffy a subzone would cause injury to the U.S. bicycle and parts industry. Naturally, we welcomed such an inquiry in the belief that it would provide confirmation of our contention that Huffy's application was not in the public interest.

We were led to believe that the economic impact analysis would be a major undertaking similar to the those conducted by the International Trade Commission and other divisions within the U.S. Department of Commerce. When the survey finally arrived in the mail, we were appalled. It consisted of only four questions, as follows:

1. Dollar value of domestic shipments, for each major type of part (e.g. frames, derailleurs, tires, etc.), for 1972–1982.
2. Average producer prices for each major type of part, for 1982.
3. Total number of employees in the cycle parts industry for each year, 1972–1982.
4. Types and brand names of domestic parts which compete directly with high value imported components based on quality and/or price.

Frankly, several of our members had difficulty even understanding the questions let alone their relevance to the Huffy proceeding, because they were so poorly worded. Nonetheless, our members did the best they could in responding to the questions. Suffice it to say that the final product was so seriously flawed that it was of virtually no value. It contained heroic assumptions, gross factual misstatements, even simple arithmetic errors.

We mention this incident for two reasons. First, if one were to give it the best gloss, it demonstrates that the Foreign-Trade Zones Board truly does lack adequate staff necessary to conduct a thorough economic impact study. As a result, it must often proceed with inadequate or incomplete data to support its recommendations, despite the fact that they have such a potentially enormous impact upon the economy. Second, it further demonstrates why we desperately need a legislative solution to our problem. With good justification, we lack confidence in the administrative process.

As stated earlier, the Foreign-Trade Zones Board has never in its history denied on the merits an application for a subzone. Indeed, judging from the public relations materials disseminated by its office and articles authored by its Executive Secretary, it would seem that there is a strong self interest in expanding the subzone program.

Perhaps we would have ultimately prevailed in the administrative proceeding. But too much was at stake. The fate of our industry should not hinge upon a possibly careless recommendation or a decision based upon inadequate or incomplete information.

Nor would an administrative victory against one bicycle manufacturer preclude others from filing subzone applications. This beleaguered industry does not have the financial wherewithal to do battle with each bicycle manufacturer who sees fit to apply for a subzone. It's also bad business since, after all, the bicycle manufacturers are our members' major customers.

To wait and see what would happen in proceedings before the Foreign Trade Zones Board would be to gamble with the future of this industry. That in essence is why temporary legislative relief was sought and obtained. The relief was embodied in Public Law 98–573, and it sunsets coterminously with the current duty suspension bill, i.e. June 30, 1986.

The fact that both measures sunset on the same date was neither accident nor coincidence. Since both relate to the duty rates on bicycle parts, they should properly be considered together rather than in piecemeal fashion.

The ITC & GAO investigations of the Foreign-Trade Zones Program

At the prompting of Representative Sam Gibbons, the International Trade Commission conducted a § 332 investigation for the purpose of determining the impact of the Foreign-Trade Zones Program upon the U.S. economy and also whether the program is being administered in accordance with the Foreign-Trade Zones Act. A similar study was conducted by the General Accounting Office. Both studies offered stunning confirmation of our worst fears about the Foreign-Trade Zones program. Indeed, they make a compelling case for legislative relief. Consider, if you will, these findings:

1. Manufacturing in foreign trade zones and subzones is used to reduce legislatively established tariffs. (GAO at 17; see also ITC at X.)

2. Zone or subzone status principally benefits firms who import for domestic consumption. (GAO pp. 9, 16, 22.)

3. Zone or subzone status provides a competitive advantage for the subzone user over other domestic firms. (GAO pp. 19–20.)

4. Zone usage is growing rapidly, both in terms of number of zones and subzones and in terms of volume of goods moving through the zones.

a. From 1976 to November 1983, the number of zones grew from 21 to 91; the number of subzones grew from 5 to 30.

b. Between 1978 and 1982, the value of shipments from FTZs rose from $743 million (47 percent from subzones) to $3.9 billion (61 percent from subzones).

5. The Board has great difficulty denying any zone or subzone application, even where they are hotly contested. ("No FTZ applications have ever been formally denied following the hearing process" . . . ITC at p. 4) ("Since 1934, the Board has denied two applications, both of which were for subzones." GAO at p. 2.)

6. Some applications have been approved with the restriction that the zone be limited to exports. (ITC at p. 5) ("Operational restrictions were imposed in four cases." GAO at p. 2.)

7. The majority (82 percent in 1982) of zone-processed products enter domestic commerce for consumption. This percentage is even higher for subzones (89 percent or $2.1 billion in 1982). (GAO at p. 15.)

8. Obtaining foreign trade zone status creates a competitive advantage for the zone company over domestic competitors. (GAO pp. 19–20.)

9. It has not been established that foreign trade zones, and particularly subzones established at existing facilities, promote or maintain domestic employment. (GAO at pp. 24, 27, ITC at p. 44.)

10. In fact, employment gains (if any) at a particular zone or subzone may be at the expense of domestic competitors or suppliers. (GAO at p. 28, ITC at p. 47.)

As can be seen, the Foreign-Trade Zones Program cries our for reform and we sincerely hope that Congress will take up this matter in the near future. For now, H.R. 2350 is merely a stopgap measure. It preserves the status quo. It buys time until Congress can grapple with the more weighty issues of which H.R. 2350 is only symptomatic.

The urgent need for H.R. 2350

H.R. 2350 is drafted narrowly to cover only this industry and not to interfere with any actions taken or contemplated with respect to other industries. Each industry is unique and is subject to a vast number of differing conditions domestically and abroad. H.R. 2350 is drafted to meet the conditions existing in the bicycle industry.

The proposition that Congress may not or should not act to maintain the integrity of a legislative scheme as carefully crafted as the United States tariff and trade laws is preposterous. It is unthinkable that Congress, the elected representatives of the citizens of the United States, should stand by blindly while an entire domestic industry is ground up in the machinery of a bureacracy that is out of control.

Our industry is a small one. The demands placed upon our membership to get a bill through both houses of Congress and on the President's desk for signature were enormous. But no effort or expense was spared. Our members filed numerous briefs and statements and testified before this very committee two years ago. We have met with our congressman. Substantial sums of money have been expended in preparing information, travelling to meetings and, of course, the time lost from work.

This crisis could not have occurred at a more inopportune time for our industry with business being so poor. Yet the members of this organization have remained united behind this effort. In opposing their largest customer, Huffy Corp., some have done so at considerable financial risk. For others, that risk was just too much to bear and they were compelled to assume a neutral position. In many cases, our members relations with their largest customer have become strained and brittle. It is indeed unfortunate when suppliers are forced to actively oppose their largest cus-

tomer. It probably will take quite some time before the ill will generated by this controversy is forgotten.

Fighting for relief from foreign trade zones required an enormous amount of personal courage and sacrifice. But the alternative of inaction was even more unappealing. Truly, our members are between that proverbial rock and a hard place! Some refer to it as a "no win" situation. Yet most chose to fight the battle since the future of their companies was on the line. If one bicycle manufacturer succeeds in obtaining a foreign trade subzone, the others will immediately follow suit. Those who can't qualify for a subzone will fall by the wayside. The U.S. parts industry as we know it today will cease to exist. We vitally need the protection of H.R. 2350. In no way does it increase tariffs. It merely preserves the status quo. Passage of H.R. 2350 will not guarantee our survival, but it does give us a fighting chance.

This is truly a classic situation where Congress should step in. The House Subcommittee on Trade has considerable expertise regarding the affairs of our industry, indeed far more than the Foreign-Trade Zones Board. Every three years since 1971, the U.S. bicycle manufacturers have come before this Committee seeking an extension of their duty suspension bill. Assurances were routinely exchanged that U.S. parts producers would not be injured. Now it is our turn to ask this Committee for help. We would not be here if those previous assurances were honored. U.S. bicycle manufacturers may continue to import to their heart's content a large variety of bicycle component free of any duty whatsoever. All that H.R. 2350 does is prevent any bicycle manufacturer from accomplishing indirectly what the duty suspension bill would never allow it to do directly: Effect a duty reduction on U.S. produced parts.

H.R. 2350 in no sense establishes a new and dangerous precedent. To the contrary, it is entirely consistent with the original purposes and objectives of the Foreign-Trade Zones Act, namely, to promote foreign trade. It preserves the integrity of the Foreign-Trade Zones Act.

If the Foreign-Trade Zones Act were properly administered, there would be no need for H.R. 2350. Sadly, as we have indicated, this is not the case. H.R. 2350 does not prohibit any bicycle manufacturer from obtaining a foreign trade subzone. It does not alter one iota the public interest test, the adjacency requirements or any other standard, qualification or criteria currently employed by the Foreign-Trade Zones Board.

The one thing and only thing that H.R. 2350 does is deny foreign trade zone benefits with respect to merchandise that is not reexported. Conversely, a bicycle manufacturer could enjoy full benefits of a foreign trade zone or subzone in connection with imported bicycle components that are then assembled on a finished bicycle which is reexported. This benefit would remove a key disadvantage that all U.S. bicycle manufacturers face when exporting overseas, namely, the payment of duty on imported components which are subsequently reexported.

Both the domestic bicycle manufacturing and bicycle parts industries are very competitive, depressed and import sensitive. Congress has carefully balanced the import sensitivity of each industry by imposing tariffs on bicycle parts which are calculated, on a weighted average basis, to give preference neither to imported bicycles nor to imported parts. This balance now allows 42 percent of the dollar volume of imported parts, most of which are used on domestic lightweight bicycles, to be imported duty free. Under H.R. 2350, the value of duty free parts is likely to rise above 50 percent. With duty rates of 5½ percent on lightweight bicycles and 11 percent on most other imported bicycles, the domestic bicycle manufacturers can use these duty free component parts to balance the dutiable imported parts.

In comparison, dutiable imported parts tariffs range from 5 percent on tires to 15 percent on tubes with most of the dutiable imports falling in the range of 11.7 percent. In conclusion, the average tariffs paid on imported parts is approximately the same or slightly lower than the average tariffs paid on imported bicycles.

This balance has been carefully enforced by this Committee through the continuing series of five duty suspension bills passed over the last fifteen years. During that period, bicycle manufacturers and parts producers have repeatedly come before this Committee and you have had to carefully examine the economies of the two industries. A fair and even handed approach to bicycle and bicycle parts tariffs has evolved over the years: The duty on parts not manufactured in this country would be suspended, but the duty on domestically manufactured parts would not be tampered with.

As a result of the most recent round of multilateral trade negotiations, the tariffs on bicycle parts have been and will continue to be substantially reduced. In 1980 most imported bicycle parts (other than duty suspended parts) were subject to a tariff of 15 percent. Most are now 11.7 percent reducing to 10 percent by 1987. These

scheduled reductions provide substantial tariff relief for importers of components. Our members are using the time provided by these phased reductions to continue their efforts to modernize their plants, improve their technology and become more efficient. The U.S. trade negotiators had the authority to reduce our tariffs by 60 percent. Because they fully understood the import sensitivity of our industry, they concluded that a 33 percent reduction phased in over seven years would be as far as they could go without destroying the domestic bicycle parts industry.

Through the device of a foreign-trade subzone, any bicycle manufacturer could subvert the intent of Congress with regard to the purpose of the Foreign-Trade Zones Act, undermine the hard fought efforts and reasoned conclusions of our multilateral trade negotiators and upset the delicate balance which this Committee has enforced regarding tariffs on bicycle parts.

In conclusion, H.R. 2350 offers a balanced approach to the tariff needs to U.S. bicycle manufacturers and their domestic suppliers. If enacted, it would enable U.S. bicycle manufacturers to import duty free the largest percentage of bicycle parts in the history of this legislation. By the same token, it preserves the duty rate on those parts still made in the United States by preventing bicycle manufacturers from obtaining a reduction through the device of a foreign trade zone or subzone. As a result, this legislation meets the needs of both industries. We urge you to report H.R. 2350 favorably without delay.

STATEMENT OF ROBERT R. WIELAND, VICE PRESIDENT—GENERAL COUNSEL AND SECRETARY, HUFFY CORP.

H.R. 2298

SUMMARY

Huffy Corporation, the nation's largest producer of bicycles, urges enactment of H.R. 2298, a bill which would suspend until June 30, 1989, the duty on certain bicycle parts and components which are not manufactured in the United States. In support of its position urging enactment of H.R. 2298, Huffy Corporation states as follows:

1. In view of the fact that numerous parts and components used in the manufacture of bicycles are not available from domestic suppliers, Huffy Corporation and other domestic bicycle manufacturers are forced to rely on foreign sources for certain essential parts which are listed in H.R. 2298.

2. Without suspension of duty on such parts, Huffy Corporation and other domestic bicycle manufacturers would be forced to pay duties on such parts ranging from 8.3 percent to 11.6 percent; at the same time, foreign bicycle manufacturers could bring complete bicycles containing these same parts into the United States at a duty rate of only 5.5 percent.

3. Without the duty suspension contemplated by H.R. 2298, the competitive advantage conferred on foreign producers of bicycles by virtue of the tariff differential would effectively preclude competition by United States bicycle producers.

4. The suspension of duty on key bicycle parts and components not manufactured in this country has been in effect since 1971, reflecting Congressional concern that United States manufacturers be able to purchase parts and components not manufactured domestically on a duty free basis; moreover, the list of parts as to which duty was suspended has been modified periodically to reflect the presence or absence of domestic production of specific parts and components.

5. American consumers are benefited by the suspension of duties on parts and components not manufactured domestically, as that enables American manufacturers of bicycles to produce bicycles at lower cost, and therefore offer their products at lower prices to the consumer.

6. The United States bicycle industry is suffering serious injury as the result of increasing imports of bicycles from abroad, principally from Taiwan; the expiration of duty suspension on parts and components will virtually assure the acceleration of such injury, and could very well result in many domestic manufacturers ceasing to produce bicycles in the United States.

STATEMENT

Huffy Corporation, the nation's largest producer of bicycles, is pleased to have the opportunity to submit comments in support of H.R. 2298, which would suspend until June 30, 1989, the duty on certain bicycle parts and components which are not manufactured in the United States. Enactment of this bill is urgently needed by the

American bicycle industry on order to remain competitive against bicycles which are imported from abroad, principally from Taiwan. This bill is not a controverial bill in that none of the components in H.R. 2298 are produced by domestic manufacturers; hence, the bill does not have any adverse impact on domestic manufacturers of parts and components. In support of its position urging enactment of H.R. 2298, Huffy Corporation states as follows:

1. In view of the fact that numerous parts and components used in the manufacture of bicycles are not available from domestic suppliers, Huffy Corporation and other domestic bicycle manufacturers are forced to rely on foreign sources for certain essential parts which are listed in H.R. 2298.

Huffy Corporation, as a domestic manufacturer of bicycles, has a basic preference for the utilization of domestic parts and components in its bicycle products, and in fact makes every effort to utilize domestic parts and components whenever such parts and components meeting the desired specifications are available from responsible suppliers in the United States at competitive prices and on reasonable terms of sale. Unfortunately, many of the parts and components are not available domestically, and the entire world supply of such parts and components is produced outside the United States. In such instances, Huffy Corporation has no alternative but to purchase such parts and components abroad. This entails extensive costs and manpower to travel the world to locate supplies of such parts and components and to negotiate for their acquisition. In most instances, it requires payment for such parts and components far in advance of the time they are received at Huffy's manufacturing facilities. It requires extremely long lead times from date of purchase to date of receipt, and requires the maintenance of greater inventories of raw materials than is required for domestically produced parts and components. It effectively precludes full utilization of the "just in time" inventory practice which Huffy strives to achieve in order to minimize costs. And, finally, in the event that out-of-specification or defective material is received, the resolution of such issues with vendors located half-way around the world is a long and arduous process.

Yet for all of the problems involved in foreign procurement of bicycle parts and components, Huffy has no alternative.

Consumers demand that bicycles they purchase be equipped with components and parts available only from overseas sources and they have come to expect that in bicycles manufactured by Huffy. Were Huffy not to use these foreign components and parts, it would in effect cease to manufacture bicycles, because many styles and models could not be produced at all, and those that could be produced would fall far short of the bicycles produced abroad in the eyes of the ultimate judge, the consumer. These parts and components, which must be purchased abroad, are listed in H.R. 2298.

2. Without suspension of duty on such parts, Huffy Corporation and other domestic bicycle manufacturers would be forced to pay duties on such parts ranging from 8.3 percent to 11.6 percent; at the same time, foreign bicycle manufacturers could bring complete bicycles containing these same parts into the United States at a duty rate of only 5.5 percent.

As noted above, there is no real alternative to the use by Huffy and other domestic manufacturers of certain foreign made bicycle parts and components if they want to continue to manufacture and sell bicycles in the United States. Under today's tariffs, the duties on these parts, when imported into this country, would range from 8.3 percent to 11.6 percent. As will be discussed below, the impact of that additional cost might well be determinative of the ability of Huffy and other domestic bicycle producers to produce competitively priced bicycles in the United States. The real impact of the failure to enact duty suspension on these parts is revealed when one considers that completed bicycles, manufactured overseas and containing these very same components, can enter the United States at a duty rate as low as 5.5 percent.

Huffy Corporation is not afraid of foreign competition. Its bicycle producing plant is as efficient as any in the world, its work force is highly productive, and it has introduced the latest methods, machinery and other innovations to enable it to manufacture today a better product at a substantially lower cost than was the case five years ago. Thus, this is not the case of an old, inefficient operation competing with modern manufacturers from abroad, as has been alleged in the case of a number of other domestic industries. We are not afraid of competition from abroad! However, we do believe that our government should let us engage in that competition on a fair basis. And certainly, letting complete bicycles from abroad enter the United States at a 5.5 percent duty, when the parts and components of a bicycle, which cannot be procured domestically, enter at higher duties should offend any reasona-

ble person's sense of fairness. The inequitable nature of this situation can be alleviated through enactment of H.R. 2298.

3. Without the duty suspension contemplated by H.R. 2298, the competitive advantage conferred on foreign producers of bicycles by virtue of the tariff differential would effectively proclude competition by United States bicycle producers.

As noted above, Huffy is now, and plans to continue, meeting the challenge of competition from overseas producers of bicycles who seek to sell their products in the United States. The number of imports has increased dramatically over the past few years, and several old line domestic manufacturers have ceased most of their United States production of bicycles and are now importing the vast bulk of the bicycles that they sell in the United States market. In Huffy's case, the competition from abroad has severely impacted the profitability of its bicycles production facility, notwithstanding the steps which it has taken to assure that it remains competitive. However, if that profitability were further impacted by the failure of Congress to enact H.R. 2298, thus increasing the effective cost of components and parts which must of necessity be purchased abroad, certainly further investment of capital to make Huffy's bicycle production facilities more cost effective could not be justified; in that event, Huffy might very well have no alternative but to look for overseas supplies of at least some of its bicycle products. And if Huffy, as the largest and we believe the most profitable bicycle manufacturer in the United States, is forced to take such steps, it doesn't take a great deal of imagination to conclude what the impact would be on smaller and less profitable domestic manufacturers.

4. The suspension of duty on key bicycle parts and components not manufactured in this country has been in effect since 1971, reflecting Congressional concern that United States manufacturers be able to purchase parts and components not manufactured domestically on a duty free basis; moreover, the list of parts as to which duty was suspended has been modified periodically to reflect the presence or absence of domestic production of specific parts and components.

Duty suspension of bicycle parts and components not available from domestic sources has been in effect since 1971, and has been renewed by Congress at regular intervals since that time. The current duty suspension bill expire June 30, 1986. H.R. 2298 would extend the duty suspension for another three years until June 30, 1989, and would expand the list of parts as to which duty is suspended to include several additional parts and components of bicycles which are not produced in the United States. The fact that duty suspension has been in effect over almost 15 years evidences Congress' historic concern that United States manufacturers of bicycles be able to purchase certain components and parts not made in this country free of duty. As mentioned previously, none of the parts and components enumerated in H.R. 2298 are available from domestic manufacturers. And it should also be noted that the domestic parts industry recognizes the importance of duty relief for their principal customers, the Untied States bicycle manufacturers. We have been advised that the domestic parts industry, through its trade association, the Cycle Parts and Accessories Association, will continue to support duty suspension as it has in the past. The suppliers of parts obviously recognize that they are not injured by this legislation, and that there is a substantial risk of injury to them if their primary customers, the United States bicycle producers, are not able to compete effectively against imported bicycles as a result of duties imposed on parts and components available only from overseas sources.

5. American consumers are benefited by the suspension of duties on parts and components not manufactured domestically, as that enables American manufacturers of bicycles to produce bicycles at lower cost, and therefore offer their products at lower prices to the consumer.

Enactment of H.R. 2298 will be of significant benefit to American consumers. If Huffy and its domestic competitors continue to receive the benefits of duty suspension on parts and components not available from domestic producers, obviously the cost of production of American made bicycles is reduced. This savings is translated into lower prices to consumers.

It is sometimes suggested that the savings in costs such as that being sought here only results in increased profits for the manufacturers. Given the present situtation of the American producers, that would not be a totally undersirable objective. However, the bicycle market in the United States is now and has been for many years extremely price competitive. And the competition exists among domestic producers, not just from imports. It is clear that the competitive state of the marketplace for bicycles will not permit any manufacturer who wishes to remain an effective competitor in the bicycle market to pocket the duty suspensioin savings for its shareholders; those savings will be translated, just as they are today, into lower prices for domestically produced bicycles, all to the benefit of the American consumer. With-

out the continuation of duty suspension, in the alternative, the American consumer who seeks to "Buy American" may ultimately find himself with very few, if any, choices unless he is willing to pay a very substantial price premium for the domestically produced product.

6. The United States bicycle industry is suffering serious injury as the result of increasing imports of bicycles from abroad, principally from Taiwan; the expiratin of duty suspension on parts and components will virtually assure the acceleration of such injury, and could very well result in many domestic manufacturers ceasing to produce bicycles in the United States.

The United States bicycle industry is under siege today and has suffered greatly as the result of low priced imports from abroad. As recently as 1982, imports accounted for only 23% of the United States bicycle market. That share grew to 30% in 1983, and 42% in 1984. The trend is continuing today and the industry etimates that imports could capture as much as 46% of the market this year. The principal factor underlying the penetration by imports is priced; bicycles from abroad are being introduced into the United States market at extremely low prices, sometimes even below cost. It is obvious from the above statistics that during the past three years the industry's shipments, the industry's current employment, and the industry's profits have all declined. As mentioned previously, several domestic manufacturers have become principally bicycle importers and now import a substantial number of the bicycles they sell. It should be obvious that if duty suspension ispermitted to expire, the injury to the domestic bicycle industry will accelerate. If that happens, there are only a few alternatives. One is to get out of the bicycle business entirely. Another would be to join others in the industry, and purchase or produce bicycles overseas. While these alternatives may restore domestic companies to profitability, they do not stop the injury to the employees of the producers whose jobs have been lost, nor do they help the many suppliers to the bicycle industry in the United States or their employees. Extension of duty suspension is a far more desirable alternative.

We appreciate the opportunity to submit these comments to the House Committee on Ways and Means, and will be pleased to provide additional information which the Committee may desire.

H.R. 2350

SUMMARY

Huffy Corporation, the nation's largst producer of bicycles, fully supports the portion of H.R. 2350 that would suspend the duty on certain bicycle parts and components until June 30, 1989, but urges that the present treatment of bicycle component parts within foreign trade zones be permitted to expire on June 30, 1986. In support of its position with respect to H.R. 2350, Huffy corporation states as follows:

1. Huffy fully supports the provisions of H.R. 2350 which would suspend until June 30, 1989, the duty on certain bicycle parts and components.

2. Current law, which expires June 30, 1986, with respect to the present treatment of bicycle component parts within foreign trade zones, was enacted in response to Huffy Corporation's application to establish a foreign trade subzone at its Celina, Ohio facility. Huffy Corporation has no intention of again applying for establishment of a foreign trade subzone at its Celina, Ohio facility, absent a major change in the duty structure applicable to bicycle components and parts.

3. Extension of the present treatment of bicycle component parts within foreign trade zones would threaten planned domestic manufacture by Raleigh Cycle Company of America, a subsidiary of Huffy Corporation, of bicycles currently produced by, and purchased from, overseas suppliers.

4. Legislative denial of the benefits of a foreign trade zone only to bicycle producers sunfairly singles out that industry in an unreasonable and inequitable manner.

STATEMENT

Huffy Corporation, the nation's largest producer of bicycles, is pleased to have the opportunity to submit comments with respect to H.R. 2350, which would suspend until June 30, 1989, the duty on certain bicycle parts and components and continue until that date the present treatment of bicycle component parts within foreign trade zones. Huffy fully supports the suspension of duty on certain bicycle parts and components until June 30, 1989, as prosposed in both H.R. 2350 and H.R. 2298, but urges that the present treatment of bicycle component parts with foreign trade zones be permitted to expire on June 30, 1986. In support of its position, Huffy Corporation states as follows:

1. Huffy fully supports the provisions of H.R. 2350 which would suspend until June 30, 1989, the duty on certain bicycle parts and components.

Huffy fully supports the provisions of H.R. 2350 which would suspend until June 30, 1989, the duty on certain bicycle parts and components. This portion of H.R. 2350 is identical to H.R. 2298. Huffy has this date submitted to the Subcommittee on Trade its comments with respect to H.R. 2298, and those comments are hereby incorporated by reference in this statement, the same as if they were set forth in full herein.

2. Current law, which expires June 30, 1986, with respect to the present treatment of bicycle component parts within foreign trade zones, was enacted in response to Huffy Corporation's application to establish a foreign trade subzone at its Celina, Ohio facility. Huffy Corporation has no intention of again applying for establishment of a foreign trade subzone at its Celina, Ohio, facility, absent a major change in the duty structure applicable to bicycle components and parts.

The current law, which in effect prohibits domestic bicycle producers from obtaining the benefits of a foreign trade zone other than for manufacturing products for export, was introduced at the behest of competitors and suppliers of Huffy Corporation following Huffy's submission of an application to the Foreign Trade Zones Board for establishment of a foreign trade subzone at Huffy's Celina, Ohio, bicycle production facility. Huffy's suppliers sought the legislation out of fear that Huffy would utilize the subzone to import a greater proportion of the bicycle parts and components in the manufacture of bicycles, despite assurance by Huffy to the contrary. Certain competitors of Huffy sought or supported the legislation out of concern that Huffy might obtain a competitive advantage that they could not, or did not want to obtain. The legislation was adopted by the House of Representatives as part of a miscellaneous trade bill. The Senate omitted a comparable provision in its version of the trade bill, but such prohibition was included in the final bill which emerged from the Conference Committee and was enacted into law.

The Foreign Trade Zones Board never had the opportunity to consider Huffy's application or to conduct hearings in the matter; that was precluded by Congress. However, a study conducted for the Foreign Trade Zones Board by the Department of Commerce fully supported the position as set forth in Huffy's application. In view of the prohibition legislation, Huffy withdrew its application to the Foreign Trade Zones Board, thus bringing the matter to an end.

Irrespective of the outcome of this legislation, Huffy has no intention of again applying for establishment of a foreign trade subzone at its Celina, Ohio facility, absent a major change in the duty structure applicable to bicycle components and parts, such as failure of Congress to enact legislation suspending duty on certain bicycle parts and components. It will not file such an application for its Celina, Ohio facility if duties on bicycles and bicycle parts are increased as proposed by H.R. 2226.

Accordingly, there is no need for extension of such legislation as the concerns of Huffy's domestic suppliers and competitors are without any basis in fact. However, extension of such provisions may adversely affect efforts by Huffy and others, as noted below, to bring back to the United States bicycle production currently being conducted overseas.

3. Extension of the present treatment of bicycle component parts within foreign trade zones would threaten planned domestic manufacture by Raleigh Cycle Company of America, a subsidiary of Huffy Corporation, of bicyles currently produced by, and purchased from, overseas suppliers.

Huffy recently announced that its subsidiary, Raleigh Cycle Company of America, would soon begin production of Raleigh brand bicycles in a new facility being established in Kent, Washington. Huffy acquired a license to build and sell Raleigh brand bicycles in the United States three years ago, and since that time, like its predecessor, has purchased such bicycles from manufacturers in Japan, Taiwan, and South Korea. The decision to manufacture Raleigh bicycles in the United States was not as easy one, given the competitive conditions and prices existing overseas. And the future of this domestic manufacturing operation will ultimately depend on its profitability. The facility at Kent, Washington is leased for a relatively short period of time, and the equipment and fixtures are quite mobile. If the facility is profitable, it will not only continue in the United States, but will probably be expanded to produce a greater proportion of the Raleigh bicycles sold in the United States. If it is not profitable, the bicycles will again be sourced from overseas producers.

It would be of significant help to the profitability of this small operation if a foreign trade subzone were established there. The new operation will provide hundreds of jobs for the citizens of Washington. No competitor will be injured; most of them have already elected to source their products overseas, and those producing domesti-

cally could seek out the same foreign trade zone status. No domestic supplier will be injured, because there are no domestic suppliers for this product currently; however, a domestic manufacturing facility will provide an opportunity for additional business not previously available to domestic suppliers. The only person who might logically complain are the bicycle producers overseas who are deprieved of sales to Raleigh Cycle Company of America, and their United States customers who have elected not to produce domestically the bicyles which they sell.

At the present time, Raleigh cannot obtain foreign trade subzone status because of existing legislation. If H.R. 2350 is enacted into law, Raleigh will be precluded from seeking this advantage offered to American business for the entire period of its facility lease. While we would not even suggest that the availability of foreign trade subzone status will solely determine Raleigh's future course of action with respect to production of bicycles in the United States, we will state categorically that if Raleigh cannot increase its profitability by producing bicycles in Kent, Washington, the Company, in all likelihood, would abandon this domestic operation and again resort to overseas procurement. This is precisely the type of situation where a foreign trade zone should be available, but this legislation, if extended, would preclude Raleigh from enjoying the benefits of foreign trade zone status to the deteriment of American workers and businesses, and to the benefit of foreign bicycle producers and their customers.

4. Legislative denial of the benefits of a foreign trade zone only to bicycle producers unfairly singles out that industry in an unreasonable and inequitable manner.

Huffy submits that the singling out of one American industry which is to be denied the benefits of general legislation is arbitrary, unfair and inequitable. It was not done after any great study showing a special need unique to that industry, but merely because opposition to Huffy's application was voiced by several suppliers and competitors. The arbitrariness and unreasonableness of this action is demonstrated by the very effect it would have on the planned repatriation of business from overseas by Huffy's subsidiary, Raleigh Cycle Company of America. All industries should be concerned about this legislation, for it demonstrates that any single industry, indeed any single company, could be subjected to this denial of privileges at the whim of Congress acting in response to protests from customers, suppliers, or even competitors. The legislation was unwise at its inception, and should not be extended.

We appreciate the opportunity to submit these comments to the House Committee on Ways and Means, and will be pleased to provide additional information which the Committee may desire.

Statement of Joseph F. O'Connor, President, National Association of Foreign-Trade Zones

The National Association of Foreign-Trade Zones (NAFTZ), an industry group composed of grantees, operators and users of foreign-trade zones throughout the United States, submits these comments in opposition to the passage of H.R. 2350. This bill would extend the legislative prohibition on foreign-trade zone procedures for bicycle assembly, except for re-export, from its current expiration date of June 30, 1986 until June 30, 1989.

The NAFTZ opposes this bill because it would continue to deny the Foreign-Trade Zones Board the authority to determine whether the public interest supports foreign-trade zone procedures for bicycle assembly. The Board's administrative procedures are perfectly adequate for these determinations, and forcing the rejection of particular applications by legislation is an unfortunate precedent which should not be continued.

In addition, the Foreign-Trade Zones Board will shortly issue proposed regulations spelling out in greater detail the Board's procedures for resolving public interest issues. On numerous past occasions the Foreign-Trade Zones Board has, under existing authority, dealt effectively with public interest considerations. Since it is expected that the new regulations will be even more specific in dealing with these matters, the proposed legislative extension is unnecessary.

Accordingly, the NAFTZ opposes the passage of H.R. 2350.

ROADMASTER CORP.,
Olney, IL, June 20, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

DEAR MR. GIBBONS: Roadmaster Corporation and its 750 employees solicit your support for H.R. 2350 which will suspend until June 30, 1989 the duty on certain bicycle parts and to continue until that date the present treatment of bicycle component parts within foreign trade zones, and for H.R. 2226 which will amend the Tariff Schedules of the U.S. to provide for rates of duty on imported bicycles and bicycle parts consistent with those rates of duty maintained by the principal exporting nations of bicycles and bicycle parts to the U.S.

I have testified against the use of foreign trade zones for bicycle component parts before your Subcommittee during the last Congress and my testimony is of record.

I will be happy to testify in favor of these two current bills and answer any questions you or any member of your Subcommittee have regarding my position upon request.

Sincerely,

GEORGE C. NEBEL, *President.*

WASHINGTON, DC, *June 28, 1985.*

Re H.R. 2350 AND H.R. 2298.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: On behalf of our client, Schwinn Bicycle Company, we are writing in support of the duty suspension provisions on bicycle parts found in H.R 2350 and H.R. 2298. These bills would suspend for three years the duties on bicycle parts which are unavailable from domestic sources.

Since 1971, the Congress on five separate occasions has acknowledged that it would be counterproductive to impose the extra cost of duties on manufacturers and hence to consumers when those manufacturers are forced to purchase parts from abroad in any event.

Suspensions of three years have been utilized so that items can be deleted from the duty free schedules if new domestic sources reappear and conversely so that new items can be added if domestic sources are no longer available. The bills this year have examples of both additions (bicycle chain and derailleurs) and deletions (frame tubing sets).

Schwinn is unaware of any controversy regarding the duty suspension provisions of these bills and respectfully urges their favorable consideration by the Subcommittee on Trade and the full Ways and Means Committee.

Very truly yours,

BROCK R. LANDRY,
Counsel, Schwinn Bicycle Co.

SIGNAL PRODUCTS DIVISION, AMERACE CORP.,
Chicago, IL, June 24, 1985.

Re Support for H.R. 2350 and opposition to H.R. 2298.

Hon. DANIEL D. ROSTENKOWSKI,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN ROSTENKOWSKI: As a bicycle parts manufacturer located in Chicago, Illinois, we are writing to express our strong support for H.R. 2350 and opposition to H.R. 2298. This is consistent with our support last session for section 211 (a) of H.R. 3398 (enacted as section 231(a) of P.L. 98–573).

We support the duty suspension provisions of both these bills because they are drafted so as to suspend the duty on selected bicycle parts. These parts were generally selected because there is no current U.S. manufacturer for them. However, H.R. 2298 is grossly unfair and would cause irreparable injury to our industry because it allows the present treatment of bicycle parts in foreign trade zones to expire on June 30, 1986, but continues duty suspension until June 30, 1989.

H.R. 2350, on the other hand, is eminently fair. It provides the duty relief which bicycle manufactures need (its duty suspension provisions are identical to those of H.R. 2298) but prevents bicycle manufacturers from then turning around and cutting the remaining duties on imported bicycle parts in half by the device of locating in a foreign trade zone or subzone.

Last session, by scheduling the foreign trade zone provision to expire on the same date as the current duty suspension bill, Congress recognized that, so long as the duty on parts not manufactured domestically by any company continues, it would be unfair to allow any bicycle manufacturer to avoid the remaining tariffs by means of the foreign trade zone loophole. This is even more true now, because the new duty suspension bill would increase the parts whose duty is suspended to 50 percent (by dollar volume) of imported parts, the highest percentage suspension ever.

For all these reasons, our company urges the Committee on Ways and Means to report H.R. 2350 favorably as introduced, and to reject H.R. 2298.

Sincerely yours,

RAMON A. MARTELLO,
Product Sales Manager, Custom Molded Products.

STEWART-WARNER CORP.,
Washington, DC, June 27, 1985.

Mr. JOSEPH DOWLEY,
Chief Counsel, House Ways and Means Committee,
Longworth Building, Washington, DC.

DEAR MR. DOWLEY: The Stewart-Warner Corporation would like to express its support for H.R. 2350, a bill introduced by Mr. Rostenkowski of whom Stewart-Warner is a constituent. As you are aware, this Act would require duty to continue to be paid on all bicycle component parts imported into Foreign Trade Zones unless such parts were not available domestically or were re-exported.

Stewart-Warner is the last domestic manufacturer of gear-driven bicycle speedometers and is very much acquainted with the effects of inadequate tariff protection, having seen how lack of such protection has contributed to the virtual extinction of domestic manufacturers of gear-driven bicycle speedometers.

For this reason, Stewart-Warner cannot support H.R. 2298 which would continue duty-free status on numerous bicycle parts but which would not afford adequate protection to domestic bicycle component parts producers. Such legislation would upset the delicate balance between the bicycle industry and the bicycle component parts industry alluded to in the findings of H.R. 2350, and would inevitably lead to the same sad consequences as were experienced by domestic producers of bicycle speedometers.

Stewart-Warner applauds the efforts of Mr. Rostenkowski and strongly urges the prompt consideration and quick passage of H.R. 2350.

Sincerely,

JOSEPH J. ENGLISH,
Manager, Washington Operations.

SUN METAL PRODUCTS, INC.,
Warsaw, IN, June 21, 1985.

JOSPEH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

GENTLEMEN: Sun Metal Products Inc. is a manufacturer of rims and spoke wheel assemblies for non-automotive applications.

A large portion of our production and sales are to the domestic bicycle manufacturers, such as Huffy, Murry, Roadmaster, Columbia, Ross, and others.

All of these customers are forced to purchase certain import components overseas that are not produced in the United States.

We support this Duty Suspension Bill, H.R. 2298, which removes from normal tariffs those items no longer manufactured in the United States while retaining the existing tariff protection for those parts or components that are currently produced domestically.

The total bicycle manufacturing trade in the United States, (both parts and bicycle companies), has seen the rapid increase in imports, to the point that the trade must have help or it will not survive. The help that this bill provides to the bicycle

manufactures is vital, and therefore vital also to Sun Metal, as a supplier to these manufacturers.

We recommend and urge that you act favorably on either H.R. 2298 or the acceptable alternative, H.R. 2350.

Respectfully submitted.

CONRAD R. ANDERSON,
Vice President and General Manager.

UNITED STEELWORKERS OF AMERICA, AFL–CIO,
Washington, DC, June 28, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth Building, Washington, DC

DEAR MR. DOWLEY: The United States Steelworkers of America supports the bill, H.R. 2350, introduced by Chairman Rostenkowski and Mr. Perkins of Kentucky, "to suspend until the close of June 30, 1989, the duty on certain bicycle parts and to continue until that date the present treatment of bicycle component parts within foreign trade zones."

The Steelworkers Union represents the workers at the Huffy Bicycle plant in Celina, Ohio, as well as workers at other bicycle parts supplying firms.

Three years go, Huffy Corporation applied for Foreign Trade Zone status which, if granted, would permit it to import foreign components at a rate lower than the applicable tariff schedule.

We filed our objections to granting FTZ status with the Foreign Trade Zones Board under Docket No. 17–82, and we continue to believe that the "Analysis"[1] of granting such status is incorrect factually and interpretively; and that it failed to determine that "a net domestic benefit" would result from such conference. For example: in its analysis of Employment in the Bicycle Industry, there is this finding: "Based on available data, it is difficult to say whether net employment will increase or decrase as a result of foreign subzone at Huffy". ("Analysis," page 16).

Huffy employs about 1800 workers equally divided between those who produce steel tubing components and those who are engaged in final assembly. We believe that the conference of subzone status at Huffy constitutes a threat to those 900 component producers who earn $9.40 per hour and receive an additional $4.00 per hour in fringe benefits. This represents a total potential loss of earnings of over $24 million.

We wish to emphasize our support for Sec. 5(3) of the bill which would strike out "and parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for the assembly (with other parts) into the frame and fork of one bicycle".

Additionally, we oppose H.R. 2298 by Mr. Duncan: "To suspend until the close of June 30, 1989, the duty on certain bicycle parts."

We urge the Subcommittee on Trade to favorably report H.R. 2350 and oppose H.R. 2298.

Sincerely,

JOHN J. SHEEHAN, *Legislative Director.*

STATEMENT OF CARLTON P. PAWSAT, PRESIDENT, WALD MANUFACTURING CO. INC.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

1. Both the bicycle and the bicycle parts industries have suffered severe import penetration over the past years.
2. Current law does not allow bicycle manufacturers to avoid through the device of a foreign trade zone the mandated duties on bicycle parts which are not reexported. However, unless extended, this protection against tariff avoidance will expire on June 30, 1986.
3. H.R. 2298 would, by omission, allow such duty avoidance.
4. Since 1971, an ever-increasing percentage by dollar volume of bicycle parts have had their duty suspended for consecutive three-year periods.

---

[1] "Potential Effects of Foreign Trade Subzones on the Bicycle Industry", issued by the Office of Consumer Goods, International Trade Administration, U.S. Department of Commerce, dated March 9, 1984.

5. The bicycle manufacturers are currently seeking duty suspension of approximately 50% by dollar volume of parts imported.

6. Wald, a parts manufacturer, supports the duty suspension sought by the bicycle manufacturers because the parts selected are principally parts for which no U.S. manufacturer currently exists.

7. Wald supports H.R. 2350 and opposes H.R. 2298 because H.R. 2350 recognizes the innate unfairness of legislatively suspended the duty on 50 percent of imported parts and then administratively halving the duty on the remaining imports solely because of a bicycle manufacturer's location in a foreign trade zone or subzone.

8. Duty suspension legislation, together with tariffs averaging 11 percent on parts and 5.5 percent on most bicycles, have balanced the need of bicycle manufacturers with that of parts manufacturers so that the duties on imported bicycles are virtually identical to the total of those on imported parts which are assembled in this country with domestically produced parts to manufacture a complete bicycle. H.R. 2350 continues that balance; H.R. 2298 would destroy it.

9. It is in the best interests of the bicycle industry, the parts industry and the U.S. consumer for Congress to reject H.R. 2298 and to enact H.R. 2350.

STATEMENT

Wald Manufacturing Company, Inc. has manufactured bicycle parts since 1905. Other than our war materials productions efforts in World War II, bicycle parts have always been our product line. (The index of our current catalog of parts produced by Wald is attached as an Exhibit to this testimony.) Since 1924, we have been located in Maysville, Kentucky.

We are a small business in a rural community. Our operations, equipment and plant facilities are modern. Because our only business is bicycle parts, our company's survival and our employees' jobs are solely dependent on the survival of the domestic bicycle parts industry.

IMPACT OF IMPORTS ON THE BICYCLE AND BICYCLE PARTS INDUSTRIES

Our industry is seriously threatened by the veritable tidal wave of imports to which we have been subjected for the past twelve years. This deluge of imports, typically from Japan, Korea, and Taiwan, has decimated our industry to the point where today there are many bicycle parts which no U.S. manufacturer produces. In fact, approximately 75% by dollar volume of parts purchased for bicycles today are imported.

Our company's own viability has been seriously threatened by these conditions. Wald's employment has dropped from over 400 employees working overtime in 1973-74 to approximately 200 today.

Our industry and our company have managed to survive this serious threat by strict quality control, inventory management, increased responsiveness to the needs and problems of our customers, and general belt-tightening. Even though these steps have been difficult and often painful, we are confident that we have made ourselves viable in this very hostile environment, absent any significant new adverse developments. Administrative reduction of our duties by half, overnight, would be a death blow to our company and our industry. Without extention of the current law regarding treatment of bicycle parts in foreign trade zones, that administrative reduction may occur when the current provision expires on June 30, 1986.

THE FOREIGN TRADE ZONE THREAT IS INTERWOVEN WITH THE DUTY SUSPENSIONS HISTORICALLY SUPPORTED BY OUR COMPANY AND OUR INDUSTRY

Our customers, the bicycle manufacturers, have also seen significant market erosion from increased importation of finished bicycles. Bicycle parts manufacturers such as Wald have tried to recognize our customers' market needs by flexible delivery, holding prices of parts steady or even lowering them, and by catering our production to their needs. We have also consistently supported the suspension of duties (which would otherwise be owed under the Tariff Schedules of the United States) on designated bicycle parts, typically, parts for which no U.S. manufacturer exists. Because of our customers' problems, we have supported duty suspension despite the additional barrier which it creates to our attempting to reclaim those parts from the import market through beginning to manufacture those parts again. We therefore support sections 3, 4, 5 and 6 of H.R. 2350, suspending until June 30, 1989, the duty on designated bicycle parts, even though after those sections are enacted approximately 50% by dollar volume of the parts imported by U.S. bicycle manufacturers

will come into this country duty free. These sections are identical to H.R. 2298. Why, you may ask, do we oppose H.R. 2298?

We at Wald believe that duty suspension is morally and logically interwoven with continuation of the present exclusion of bicycle parts (which are not reexported) from the exemption from the customs laws otherwise available in foreign trade zones. H.R. 2350 recognizes this interdependence; H.R. 2298 does not. Passage of H.R. 2298 would not only result in 50% of the parts imported coming in duty free, it would, by omitting extension of present treatment of bicycle parts in foreign trade zones, also halve the duty on the other 50% of imports.

Sections 1 and 2 of H.R. 2350, however, continue until June 30, 1989, the present exclusion of bicycle parts (unless reexported) from the exemption from the customs law otherwise available in a foreign zone. H.R. 2350 would therefore prevent our loss of tariff protection for those parts not chosen for duty suspension. The cosponsors of H.R. 2350 explicitly recognized the interrelationship between duty suspension and current foreign trade zone treatment whent they stated:

SECTION 1. FINDINGS.

The Congress finds that—

(1) a delicate balance of the interests of the bicycle industry and bicycle component parts industry has been reached through repeated revision of the Tariff Schedules of the United States so as to allow duty free import of those categories of bicycle component parts which are not manufactured domestically;

(2) this balance, the presentation of which is in the public interest and in the interest of the domestic bicycle industry, would be destroyed by exempting otherwise dutiable bicycle component parts from the customs laws of the United States by granting foreign trade zone status to bicycle manufacturing and assembly plants in the United States; and

(3) the domestic bicycle industry currently is seeking to extend duty supsension on bicycle parts from June 30, 1986, until June 30, 1989, therefore the balance between that industry and the bicycle component parts industry can only be maintained if the present exclusion of bicycle component parts that are not re-exported from the exemption from the customs laws otherwise available to merchandise in foreign trade zones is also extended from June 30, 1986 until June 30, 1989.

Moreover, paragraphs (1) and (2) set forth above are virtually identical to the findings announced by this Committee when it reported favorably section 211(a) of H.R. 3398 last session (codified as section 231(a) of P.L. 98–573).

We at Wald could not agree more with these Congressional findings. When we testified before this Committee last session, and consistently since then, we have pointed out the innate unfairness of legislatively providing duty free treatment for 50 percent of all imported bicycle parts and then administratively halving overnight the duty on the remaining imports through the device of a bicycle manufacturer locating in a foreign trade zone or subzone. This is because the average duty rate on bicycle parts is 11 percent and on most bicycles is only 5.5 percent. The apparent disparity in these rates was intentionally mandated by Congress because of the practical effect of duty suspension legislation, which, when applied to a completely assembled bicycle, causes the dollar value of the two rates to be virtually identical. Yet, if a bicycle manufacturer locates in a zone or has an existing facility declared a subzone, that bicycle manufacturer can choose to apply the finished bicycle rate to the value of the imported parts, in effect cutting the remaining bicycle parts duties in half.

H.R. 2350, NOT H.R. 2298, SHOULD BE ENACTED

H.R. 2298 is identical to sections 3, 4, 5 and 6 of H.R. 2350. For the reasons explained above, we support all those sections of H.R. 2350. But, as also explained above, duty suspension is only workable in the context of prohibition of use of foreign trade zone or sub-zone status to administratively halve those parts tariffs which are not so suspended. Therefore, while we fully support duty suspension, we oppose H.R. 2298.

CONCLUSION

The bicycle industry desperately needs duty suspension in order to compete with bicycle imports. The bicycle parts industry recognizes that need and has agreed to support duty suspension for designated bicycle parts despite the additional barriers this creates for parts manufacturers who try to regain any of this lost market. After enactment of duty suspension as proposed in sections 3, 4, 5 and 6 of H.R. 2350, the

duties on imported bicycles are virtually identical to the total of those on imported parts which are assembled in this country with domestically produced parts to manufacture a complete bicycle. Thus, the competitive position of the bicycle manufacturers vis-a-vis imported bicycles will have been improved to the maximum extent possible without actually damaging the present competitive position of domestic parts manufacturers vis-a-vis imported parts and a delicate balance of the needs of these two industries will have been achieved.

Unless H.R. 2350 rather than H.R. 2298 is enacted, however, the present treatment of bicycle parts in foreign trade zones will expire and bicycle manufacturers will be able to destroy this delicate balance by locating in a foreign trade zone or having an existing facility declared a sub-zone. Bicycle parts manufacturers cannot survive a 50 percent tariff reduction overnight, particularly on top of a 50 percent duty suspension. We are willing to help our customers as much as possible, but they must not then turn around and take away half of the bargain.

We urge you to reject H.R. 2298 and to enact H.R. 2350 as introduced, thereby ensuring that the delicate balance previously achieved by Congress continues, so that the domestic bicycle and bicycle parts industries can continue to produce quality bicycles for the children and adults of America.

H.R. 2350

SUMMARY OF COMMENTS AND RECOMMENDATIONS

1. Both the bicycle and the bicycle parts industries have suffered severe import penetration over the past years.
2. Current law does not allow bicycle manufacturers to avoid through the device of a foreign trade zone the mandated duties on bicycle parts which are not reexported. However, unless extended, this protection against tariff avoidance will expire on June 30, 1986.
3. Since 1971, an ever-increasing percentage by dollar voume of bicycle parts have had their duty suspended for consecutive three-year periods.
4. The bicycle manufacturers are currently seeking duty suspension of approximately 50 percent by dollar volume of parts imported.
5. Wald, a parts manufacturer, supports the duty suspension sought by the bicycle manufacturers because the parts selected are principally parts for which no U.S. manufacturer currently exists.
6. Wald supports H.R. 2350 and opposes H.R. 2298 because H.R. 2350 recognizes the innate unfairness of legislatively suspending the duty on 50 percent of imported parts and then administratively halving the duty on the remaining imports solely because of a bicycle manufacturer's location in a foreign trade zone or subzone.
7. Duty suspension legislation, together with tariffs averaging 11 percent on parts and 5.5 percent on most bicycles, have balanced the need of bicycle manufacturers with that of parts manufacturers so that the duties on imported bicycles identical to the total of those on imported parts which are assembled in this country with domestically produced parts to manufacture a complete bicycle. H.R. 2350 continues that balance; H.R. 2298 would destroy it.
8. It is in the best interests of the bicycle industry, the parts industry and the U.S. consumer for Congress to enact H.R. 2350.

STATEMENT

Wald Manufacturing Company, Inc. has manufactured bicycle parts since 1905. Other than our war materials productions efforts in World War II, bicycle parts have always been our product line. (The index of our current catalog of parts produced by Wald is attached as an Exhibit to this testimony.) Since 1924, we have been located in Maysville, Kentucky.

We are a small business in a rural community. Our operations, equipment and plant facilities are modern. Because our only business is bicycle parts, our company's survival and our employee's jobs are solely dependent on the survival of the domestic bicycle parts industry.

IMPACT OF IMPORTS ON THE BICYCLE AND BICYCLE PARTS INDUSTRIES

Our industry is seriously threatened by the veritable tidal wave of imports to which we have been subjected for the past twelve years. This deluge of imports, typically from Japan, Korea, and Taiwan, has decimated our industry to the point where today there are many bicycle parts which no U.S. manufacturer produces. In

fact, approximately 75 percent by dollar volume of parts purchased for bicycles today are imported.

Our company's own viability has been seriously threatened by these conditions. Wald's employment has dropped from over 400 employees working overtime in 1973-74 to approximately 200 today.

Our industry and our company have managed to survive this serious threat by strict quality control, inventory management, increased responsiveness to the needs and problems of our customers, and general belt-tightening. Even though these steps have been difficult and often painful, we are confident that we have made ourselves viable in this very hostile environment, absent any significant new adverse developments. Administrative reduction of our duties by half, overnight, would be a death blow to our company and our industry. Without extension of the current law regarding treatment of bicycle parts in foreign trade zones, that administrative reduction may occur when the current provision expires on June 30, 1986.

THE FOREIGN TRADE ZONE THREAT IS INTERWOVEN WITH THE DUTY SUSPENSIONS HISTORICALLY SUPPORTED BY OUR COMPANY AND OUR INDUSTRY

Our customers, the bicycle manufacturers, have also seen significant market erosion from increased importation of finished bicycles. Bicycle parts manufacturers such as Wald have tried to recognize our customers' market needs by flexible delivery, holding prices of parts steady or even lowering them, and by catering our production to their needs. We have also consistently supported the suspension of duties (which would otherwise be owed under the Tariff Schedules of the United States) on designated bicycle parts, typically, parts for which no U.S. manufacturer exists. Because of our customers' problems, we have supported duty suspension despite the additional barrier which it creates to our attempting to reclaim those parts from the import market through beginning to manufacture those parts again. We therefore support sections 3, 4, 5, and 6 of this bill, suspending until June 30, 1989, the duty on designated bicycle parts, even though after those sections are enacted approximately 50% by dollar volume of the parts imported by U.S. bicycle manufacturers will come into this country duty free. We believe that such suspension meets our customers' legitimate needs yet balances our own needs by not lowering the duty on those parts which are currently made domestically.

However, sections 3, 4, 5 and 6 are morally and logically interwoven with sections 1 and 2 of the bill, continuing until June 30, 1989, the present exclusion of bicycle parts (unless reexported) from the exemption from the customs law otherwise available in a foreign trade zone. Without sections 1 and 2, our current statutory protection will expire on June 30, 1986. The cosponsors of the bill explicitly recognized the interrelationship of duty suspension and current foreign trade zone treatment when they stated:

SECTION 1. FINDINGS.

The Congress finds that—

(1) a delicate balance of the interests of the bicycle industry and the bicycle component parts industry has been reached through repeated revision of the Tariff Schedules of the United States so as to allow duty free import of those categories of bicycle component parts which are not manufactured domestically;

(2) this balance, the preservation of which is in the public interest and in the interest of the domestic bicycle industry, would be destroyed by exempting otherwise dutiable bicycle component parts from the customs laws of the United States by granting foreign trade zone status to bicycle manufacturing and assembly plants in the United States; and

(3) the domestic bicycle industry currently is seeking to extend duty suspension on bicycle parts from June 30, 1986, until June 30, 1989, therefore the balance between that industry and the bicycle component parts industry can only be maintained if the present exclusion of bicycle component parts that are not re-exported from the exemption from the customs laws otherwise available to merchandise in foreign trade zones is also extended from June 30, 1986 until June 30, 1989.

Moreover, paragraphs (1) and (2) set forth above are virtually identical to the findings announced by this Committee when it reported favorably section 211(a) of H.R. 3398 last session (codified as section 231(a) of P.L. 98-573).

We at Wald could not agree more with these Congressional findings. When we testified before this Committee last session, and consistently since then, we have pointed out the innate unfairness of legislatively providing duty free treatment for 50 percent of all imported bicycle parts and then administratively halving overnight the duty on the remaining imports through the device of a bicycle manufacturer

locating in a foreign trade zone or subzone. This is because the average duty rate on bicycle parts is 11 percent and on most bicycles is only 5.5 percent. The apparent disparity in these rates was intentionally mandated by Congress because of the practical effect of duty suspension legislation, which, when applied to a completely assembled bicycle, causes the dollar value of the two rates to be virtually identical. Yet, if a bicycle manufacturer locates in a zone or has an existing facility declared a subzone, that bicycle manufacturer can choose to apply the finished bicycle rate to the value of the imported parts, in effect cutting the remaining bicycle parts duties in half.

H.R. 2350, NOT H.R. 2298, SHOULD BE ENACTED

H.R. 2298 is identical to sections 3, 4, 5 and 6 of H.R. 2350. For the reasons explained above, we support all those sections of H.R. 2350. But, as also explained above, duty suspension is only workable in the context of prohibition of use of foreign trade zone or sub-zone status to administratively halve those parts tariffs which are not so suspended. Therefore, while we fully support duty suspension, we oppose H.R. 2298.

CONCLUSION

The bicycle industry desperately needs duty suspension in order to compete with bicycle imports. The bicycle parts industry recognizes that need and has agreed to support duty suspension for designated bicycle parts despite the additional barrier this creates for parts manufacturers who try to regain any of this lost market. After enactment of duty suspension as proposed in sections 3, 4, 5 and 6 of this bill, the duties on imported bicycles are virtually identical to the total of those on imported parts which are assembled in this country with domestically produced parts to manufacture a complete bicycle. Thus, the competitive position of the bicycle manufacturers vis-a-vis imported bicycles will have been improved to the maximum extent possible without actually damaging the present competitive position of domestic parts manufacturers vis-a-vis imported parts and a delicate balance of the needs of these two industries will have been achieved.

Unless sections 1 and 2 are also enacted, however, bicycle manufacturers will be able to destroy this delicate balance by locating in a foreign trade zone or having an existing facility declared a sub-zone. Bicycle parts manufacturers cannot survive a 50 percent tariff reduction overnight, particularly on top of a 50 percent duty suspension. We are willing to help our customers as much as possible, but they must not then turn around and take away half of the bargain.

We urge you to enact H.R. 2350 as introduced, thereby ensuring that the delicate balance previously achieved by Congress continues, so that the domestic bicycle and bicycle parts industries can continue to produce quality bicycles for the children and adults of America.

H.R. 2300

To extend for 3 years the existing suspension of duty on triphenyl phosphate

U.S. International Trade Commission

Section-by-section analysis

H.R. 2300, if enacted, would amend item 907.01 of the Appendix to the Tariff Schedules of the United States (TSUS) to extend the temporary suspension of column 1[1] duties for item 409.34. This would be accomplished by striking out the current expiration date of "9/30/1985" and replacing it with "9/30/1988." Section 2 of the bill states that the amendment would apply to articles entered or withdrawn from warehouse after October 1, 1985.

Background

Description and uses.—Triphenyl phosphate (TPP) is a colorless, odorless crystalline powder used principally as a fire-retarding agent and as a plasticizer for cellulose acetate and nitrocellulose used in the manufacture of photographic and other films. TPP functions to reduce the flammability of these films, as well as increasing the flexibility, making them safer and easier to handle. More than 75 percent of all TPP produced is used in these applications.

TPP is manufactured from phenol and phosphorus oxychloride. Hydrogen chloride, a commercially use byproduct, is also produced in the process.

Purpose.—The market for the major end-uses for TPP, nitrocellulose films and cellulose acetate, has been declining for several years. Domestic manufacturers of TPP have virtually abandoned production of the product. Since imports of TPP supply most, if not all, domestic open-market demand, U.S. importers contend it would make sense to remove any impediment to access to the only remaining source of supply.

Comparison with present law

Tariff treatment under the TSUS.—TPP is classified under TSUS item 409.34. The column 1 rate of duty is 0.5 cents per pound plus 17.7 percent ad valorem.[2] The rate for least developed developing countries (LDDCs)[3] is 0.1 cents per pound plus 17.7 percent ad valorem. The column 2[4] duty rate is 7 cents per pound plus 57 percent ad valorem. Imports under item 409.34 may be eligible for duty-free treatment under the Generalized System of Preferences (GSP).[5] Articles produced in benefici-

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] Currently suspended under item 907.01.

[3] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[4] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[5] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

ary Caribbean countries may qualify for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).[6]

The staged duty rate reductions negotiated for item 409.34 during the Tokyo round of Multilateral Trade Negotiations (MTN) are shown in the following tabulation:

Year	Rate of duty effective with respect to articles entered on or after Jan. 1	Ad valorem equivalent of compound duty rate.[1]
Pre-MTN [2]	1.7¢/lb + 17.7% ad val	20.2%
1980 [3]	1.5¢/lb + 17.7% ad val	19.9%
1981	1.3¢/lb + 17.7% ad val	19.6%
1982	1.1¢/lb + 17.7% ad val	19.3%
1983	0.9¢/lb + 17.7% ad val	19.0%
1984	0.7¢/lb + 17.7% ad val	18.7%
1985	0.5¢/lb + 17.7% ad val	18.4%
1986	0.3¢/lb + 17.7% ad val	18.1%
1987	0.1¢/lb + 17.7% ad val	17.8%

[1] Based on 1980 imports of all plasticizers entered in this basket category, except phthalic acid esters.
[2] Rate effective prior to July 1, 1980.
[3] Rate effective on or after July 1, 1980.

Tariff treatment under the proposed Harmonized System (HS).[7]—The Harmonized System (HS) commodity code number for TPP is 2917.39.20.[8] The column 1 duty rate that will be effective upon implementation of the HS is 0.2¢/Kg. + 17.7 percent ad valorem.

Structure of the domestic industry

Monsanto Company, St. Louis, Mo., and Eastman Kodak Company, Rochester, N.Y., were the only producers of TPP in 1981. Monsanto permanently ceased production of TPP in 1981. Borg-Warner Corp., Morgantown, W. Va., and FMC, Nitro, W. Va., also have the ability to produce TPP, but neither have reported production of this product during 1980–84 and both indicate that they have no immediate interest in this market. It is estimated by industry observers that most of Eastman Kodak's production is consumed captively in its photographic film manufacturing operations. U.S. open-market demand for TPP is likely to be satisfied principally by imports in the future.

Domestic production

Separate production data are not available for TPP. However, industry representatives estimate that total domestic production during 1980–84 was substantially less than 10 million pounds annually.

U.S. imports

Separate import statistics on TPP were not available prior to 1984 when TPP was broken out as a statistical classification in item 409.3425. Imports of TPP in 1984 amounted to about 1.1 million pounds, valued at $764,000. The United Kingdom supplied 82 percent of total U.S. imports of TPP in 1984, while the Netherlands and South Korea each supplied about 8 percent. Other countries from which imports of TPP were received were Canada and West Germany. About 88,184 pounds, valued at $43,467, or about 8 percent of TPP imports, were eligible for duty-free treatment

[6] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[7] The Harmonized System is intended to serve as the single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

[8] Source: Trade Policy Staff Committee, Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System (September 1984).

under the GSP. However, because the duty suspension under item 907.01 was in effect, the GSP was not used.

U.S. exports

Export statistics for TPP are not separately available. However, industry representatives indicate that they believe exports are negligible.

Apparent U.S. consumption

Industry sources estimate that annual domestic consumption to TPP was less than 10 million pounds in 1984, and it is not expected to exceed that figure in the near future.

Effect on revenue

In 1984, the only year for which import data are available, the calculated revenue lost a result of the current duty suspension legislation amounted to $108,354. Since the U.S. market for TPP is a declining market, substantial increases in imports are unlikely and total revenue losses as a result of this legislation are not expected to exceed $110,000 per year in the near future.

Technical comments

The bill makes the extension of the suspension applicable with respect to articles entered, or withdrawn from warehouse for consumption, after October 1, 1985. Since the current duty suspension expires September 30, 1985, material entered, or withdrawn from warehouse on October 1, 1985 would not be covered. Therefore, we recommend that section 2 of the bill be amended to apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1985, or, alternatively, after September 30, 1985.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 2300, a bill "To extend for 3 years the existing suspension of duty on triphenyl phosphate."

The Department of Commerce has no objection to the enactment of H.R. 2300, which would extend the current suspension of the column 1 (MFN) duty on this chemical product through September 30, 1988. The column 2 (statutory) rate of duty would be unaffected by this legislation.

If the duty on this chemical intermediate were not currently suspended under Tariff Schedules of the United States (TSUS) item 907.01, triphenyl phosphate would enter the United States under TSUS item 409.34 with an MFN rate of 0.5 cents per pound plus 17.7 percent ad valorem. As a result of concessions made in the Tokyo Round of trade negotiations, the MFN duty will be reduced in stages to 0.1 cents per pound plus 17.7 percent ad valorem on January 1, 1987. This chemical is eligible for duty-free treatment under the U.S. generalized System of Preferences.

Enactment of H.R. 2300 will not have an adverse effect on domestic industries. This chemical is produced in the United States by only one firm for its own use.

Revenue loss from enactment of this bill cannot be calculated since triphenyl phosphate is only a portion of the basket category TSUS 409.34. Enactment of H.R. 2300 would have no effect on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

H.R. 2301

To provide for the duty-free treatment for an organ for the use of Wichita State University, Wichita, Kansas

No comments were received on this bill.

H.R. 2303

To create a separate tariff classification for imports of pigskin footwear

STATEMENT OF THOMAS R. GLEASON, PRESIDENT, AND KAREN S. HOLCOMB, GENERAL COUNSEL, WOLVERINE WORLD WIDE, INC.

SUMMARY OF PRINCIPAL POINTS

1. Wolverine World Wide, Inc., the nation's largest manufacturer of pigskin footwear, strongly supports H.R. 2303, which would create separate tariff classifications for imports of pigskin footwear.
2. Imports of pigskin footwear have been increasing rapidly. There is a threat of even greater imports of pigskin footwear in the near future, particularly imports from the Peoples Republic of China and Eastern Europe. These imports are causing great harm to Wolverine World Wide, to other pigskin footwear manufacturers, to the pigskin tanning industry, and to the farmers and packing houses who supply and process raw pigskins.
3. Enactment of H.R. 2303 would not increase the rates of duty on pigskin footwear, but would enable Wolverine and the Government to collect better data on imports of pigskin footwear and to monitor trends in those imports.
4. In addition, separate tariff classifications will facilitate subsequent action by the President or the Executive Branch to increase the rates of duty on pigskin footwear, in response to petitions and requests made under existing U.S. trade laws.
5. Creation of separate statistical annotations for pigskin footwear is not an adequate substitute for enactment of H.R. 2303.

I. Introduction and summary

Wolverine World Wide, Inc. ("Wolverine"), the nation's largest manufacturer of pigskin footwear, including the well known Hush Puppies brand of casual footwear, strongly supports H.R. 2303, which would create separate tariff classifications for imports of pigskin footwear.

Separate tariff classifications will enable Wolverine and the Government to collect better data on imports of pigskin footwear and to monitor trends in those imports. In addition, separate tariff classifications will facilitate subsequent action by the President or the Executive Branch to increase the rates of duty on pigskin footwear, in response to petitions and requests made under existing trade laws.

Enactment of H.R. 2303 would not itself increase the barriers to importation of pigskin footwear, but would enable Wolverine to better avail itself of the remedies that current law presently provides against increasing imports of pigskin footwear that are causing Wolverine great harm.

II. Wolverine World Wide, Inc.

Wolverine World Wide, Inc. ("Wolverine") is one of the nation's ten largest footwear manufacturers. Wolverine is the largest American manufacturer of pigskin footwear, including the well known Hush Puppies brand of casual shoes.

Wolverine, which is headquartered in Rockford, Michigan, has 19 domestic footwear manufacturing facilities throughout the United States, primarily in small towns in Arkansas, Maine, Massachusetts, Michigan, Missouri, New Hampshire and New York. In these domestic facilities, Wolverine employs approximately 7,000 workers.

Wolverine is also the nation's largest tanner of pigskin leather and suede. Wolverine has developed special, patented skinning equipment that enables packing houses to skin pigs efficiently and cleanly. Wolverine's special ability to tan raw scalded pigskin into leather and suede,[1] and thereafter to use that leather and suede for the manufacture of pigskin footwear, provides a market for farmers and packing houses who would otherwise have limited uses for the skins of the pigs that are slaughtered for food.[2]

III. The distinctive characteristics and economics of pigskin footwear

Shoes manufactured from pigskin leather and suede have distinctive characteristics that distinguish pigskin footwear from other forms of footwear. For instance, shoes manufactured from pigskin leather or suede have a distinctive appearance and texture and distinct physical properties, such as greater "breathability". In addition, sales of pigskin footwear respond to changes in style preferences and changes in economic factors (particularly affecting raw material costs) that do not necessarily apply to other types of shoes.

Most important, domestic manufacturers of pigskin footwear face particularly serious injury and threats of injury from imports because, relative to other raw materials, pigskin leather is much more available, at lower prices, to foreign footwear manufacturers.[3] The simple fact is that there are relatively many more pigs than cows in the Far East and in other footwear exporting areas, such as Eastern Europe. It has also been much more common in those areas, particularly in Japan and in Eastern Europe, to skin pigs for leather.[4]

As a result, Wolverine believes, pigskin footwear has represented a disproportionately large share of the surge in imported footwear that has occurred during the past several years.

Furthermore, very recent developments in the foreign supply of pigskin leather, particularly from the Peoples Republic of China, suggest that this raw material will become even more attractive to foreign footwear producers in the near future, potentially resulting in an overwhelming flood of pigskin footwear exports to the United States.

A recent study of the worldwide leather industry ominously concluded:

"As economic policy in China changes, it is increasingly obvious that the country will become a major participant in the international leather industry.

China, like Eastern Europe, is known for its large scale pigskin leather production. Pig leathers are said to account for up to 75 percent of total leather production . . .

"The available data are too poor for formal projections, but we do expect China to become an extremely large and important participant in the world's leather industry. In the future, China can be expected to have an impact not dissimilar from that of Taiwan and South Korea in the 1970s . . ." [5]

The combination of cheap pigskin leather from China and low-priced labor there and elsewhere in the Far East could result in a flood of low-priced pigskin footwear

---

[1] Most pigskin is turned into suede because the process of scalding the pigskin destroys the grain layer that would otherwise be used for making full grain leather.

[2] The joint interests of pig producers, meat processors and pigskin tanners are recognized and represented by the Pigskin Council of America, which was formed in 1981.

[3] A 1981 study for the United Nations Industrial Development Organization ("UNIDO") found that the highest production of pigskin leather was in the centrally planned economy countries of the Soviet Union, Yugoslavia, and China, and in Japan, in which the aggregate annual production of pigskin leather was approximately 1.4 billion square feet per year. By contrast, the annual production of pigskin leather per year in the so-called "low skin producing areas" of North America and Western Europe was, in the aggregate, only 107 million square feet per year. D. Winters, Techno-Economic Considerations for the Utilization of Pigskins As an Alternative Source of Raw Material For Leather and Leather Products (UNIDO, April 1981) (hereinafter referred to as the "UNIDO Report") at p. 7.

[4] The UNIDO Report found that legislation in Eastern European countries insists upon the removal of pigskins and that the Chinese government, wishing to expand leather production from pigskin, pays subsidise to encourage the practice. UNIDO Report, supra, at p. 6. In Japan the skin is removed from approximately 70 percent of all pigs that are slaughtered, whereas in the United States the same ratio is less than 5 percent. UNIDO Report, supra, at pp. 50 and 55–56.

[5] Landell Mills Commodity Studies, Ltd., and Glovers Worldwide Services, Ltd., *The Leather Industry: Retrenchment or Prosperity in the 1980s?* (United Kingdom, March 1985) at 216 and 218 (emphasis supplied).

imports that might overwhelm the competitive ability of American pigskin footwear manufacturers, such as Wolverine.[6]

IV. The pending section 201 investigation of imported footwear

Because of its concerns about the special injury and threat of injury being caused by increasing imports of pigskin footwear, Wolverine participated as a party to the recent investigation of nonrubber footwear by the U.S. International Trade Commission under Section 201 of the Trade Act (ITC Inves. No. TA-201-55).

In the course of three briefs to the Commission, and in testimony at the Commission's hearing in April, Wolverine explained how increasing imports of pigskin footwear have taken over a large share of the American market, resulting in precipitous declines in Wolverine's domestic production of pigskin footwear and its production of pigskin leather for independent shoe manufacturers.

To remedy this injury and the threat of sharply increased injury from imported pigskin footwear, Wolverine has proposed that the President establish a separate additional duty on pigskin footwear imports, above and beyond any increased duties or quotas on footwear imports in general.

Wolverine fears that, because of the unique considerations that apply to the worldwide supply of pigskin leather, even general quotas on all footwear imports will not stem the rising tide of imported pigskin shoes. Indeed, Wolverine has good reason to fear that general import quotas may encourage foreign exporters, who have access to relatively less expensive pigskin, to adjust their export mix so as to ship an increasing proportion of relatively more profitable pigskin shoes to the United States. A separate additional duty on pigskin footwear would neutralize the raw material cost considerations that might otherwise motivate foreign footwear manufacturers to increase their exports of pigskin footwear.[7]

Wolverine intends to continue to urge the President, who must make his determination in the pending Section 201 investigation by September, to impose such an additional duty on pigskin shoes.

Enactment of H.R. 2303 would facilitate the President's impostion of increased duties on pigskin footwear by creating additional tariff items that would carry separate rates of duty on pigskin footwear. Under the existing Tariff Schedules, pigskin shoes bear the same rate of duty that apply to other forms of shoes. Creating a separate tariff item for pigskin footwear would facilitate the imposition of higher duties on pigskin shoes than otherwise apply to other forms of footwear.

V. The current tariff treatment of pigskin footwear

As the Tariff Schedules of the United States are presently written, imports of pigskin shoes are indiscriminately classified within "basket" categories that apply to many other types of shoes, i.e., TSUS Item Nos. 700.35 (for men's and boys' shoes), 700.43 (for women's and children's shoes valued at no more than $2.50 per pair) and 700.45 (for women's and children's shoes valued at more than $2.50 per pair). The rates of duty that currently apply to those tariff classifications are as follows:

TSUS item No.	Product	Duty rate
700.35	Men's and Boys'	8.5% ad val.
	Women's and Children's:	
700.43	$2.50 per pair or less	15.0% ad val.
700.45	More than $2.50 per pair	10.0% ad val.

VI. The objectives of H.R. 2303

H.R. 2303 would create three new tariff items for pigskin footwear:

[6] Wolverine has also learned that the Soviet Union is planning to dump an additional 1,500,000 pigskin hides on the world market.

[7] Wolverine has suggested that an increased duty of 40 percent ad valorem would be necessary to accomplish this objective. See Brief on Behalf of Wolverine World Wide, Inc. Regarding Remedy, USITC Inves. No. TA-201-55 (May 28, 1985).

TSUS item No.	Product	Duty rate
	Pigskin footwear:	
700.21	Men's and Boys'	8.5% ad val.
	Women's and Children's:	
700.22	$2.50 per pair or less	15.0% ad val.
700.23	More than $2.50 per pair	10.0% ad val.

H.R. 2303 would not change the rates of duty on imported pigskin footwear. It would, however, accomplish three other objectives.

First, creation of separate tariff items for pigskin footwear would enable Wolverine and the Government to collect better data on imports of pigskin footwear and to monitor trends in those imports.

Second, creation of separate tariff items for pigskin footwear would facilitate subsequent action by the President or the Executive Branch to increase the rates of duty on pigskin footwear in response to petitions and requests made under existing trade laws. As mentioned above, Wolverine has made such a request in the pending Section 201 investigation of nonrubber footwear imports (USITC Inves. No. TA-201-55).

Third, enactment of H.R. 23.3 would send a message from Congress that imports of pigskin footwear raise special problems and concerns that deserve particularized investigation and treatment.

The first of these objectives might also be partially served by the creation of separate statistical annotations within the existing Tariff Schedules. In fact Wolverine has independently petitioned the Committee for Statistical Annotation of the Tariff Schedules to create separate statistical suffixes for pigskin footwear within the existing "basket" categories under which such footwear is imported.

Creation of separate statistical annotations for pigskin footwear would not, however, accomplish the other two objectives of H.R. 2303: facilitation of separate duty treatment (by independent Presidential or administrative action) or congressional recognition of the special problems created by imports of pigskin footwear.

Even if H.R. 2303 were not enacted prior to the President's decision in the pending Section 201 investigation, or if the President decided not to impose a separate additional duty on pigskin footwear as a result of that investigation, the existence of separate tariff items for pigskin footwear would facilitate Wolverine's pursuit of other trade law remedies, *e.g.*, under the nation's antidumping and countervailing duty laws.

VII. Conclusion

Enactment of H.R. 2303 would significantly aid Wolverine in its pursuit of import remedies under existing U.S. trade laws, but would not itself require the Congress to take any action to increase trade barriers. For these reasons and for the reasons described more fully above, Wolverine strongly urges the Committee and the Congress to give swift approval to H.R. 2303.

H.R. 2306

To suspend for a 3-year period the duty on certain specialty yarns used in the manufacture of wigs for dolls

U.S. International Trade Commission

Section-by-section analysis

This bill, if enacted, would suspend for a three-year period the column 1[1] rate of duty on certain specialty yarns of manmade fibers. The column 2[2] rate of duty would remain unchanged. The legislation would amend subpart B of part 1 of the Appendix to the Tariff Schedules of the United States by inserting the following new item in numerical sequence:

905.30	Grouped filaments and yarns, not textured, in continuous form, colored, of nylon, polypropylene, or modacrylic, whether or not curled, of not less than 20 denier per filament, packaged on spools or in other immediate containers or holders not more than 6 pounds net weight each (provided for in item 309.31, part 1E, schedule 3, or item 389.62, part 7B, schedule 3).	

The effective date of the amendment would be the 15th day after the date of enactment of the bill.

Background

Description and uses.—The manmade fiber yarns covered by this bill include grouped nylon, polypropylene, or modacrylic fibers of continuous length—referred to as filaments—that are colored and not textured, whether or not curled. Additionally, each filament within the grouped filament yarn is 20 denier[3] or more. These yarns are packaged on spools or other containers not more than 6 pounds each. Although these yarns are used by proponents of the bill to produce doll wigs, they are also used in a variety of other products, most notably handcraft rugs, macrame items, and baler twine.

Purpose.—The proposed legislation was introduced by Representative Thomas Manton on behalf of A & B Artistic Wig Corporation of Long Island City, New York, which claims that the specialty manmade-fiber yarns used to produce wigs for dolls are not domestically produced and therefore should be eligible for duty-free treatment.[4]

The American Yarn Spinners Association[5] has advised the Commission staff that they oppose this legislation as introduced because they have knowledge of a domestic industry producing the subject yarn and because this legislation would allow for duty-free entry of yarn used in products other than doll wigs. The staff has been

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[3] Denier is equivalent to the number of grams per 9,000 meters. The low numbers represent finer yarns and the higher numbers represent heavier yarns.

[4] Obtained information during telephone conversation between Commission staff and Steve Vest of Representative Manton's office on July 16, 1985.

[5] Obtained information during telephone conversation between Commission staff and Jim Connor on May 20, 1985.

further advised that the American Texitle Manufacturers Institute,[6] the Man-Made Fiber Producers Association,[7] and the Cordage Institute[8] also oppose the bill as introduced.

Prior investigations

In 1978 the U.S. International Trade Commission (ITC) conducted an antidumping investigation on nylon yarns and nylon grouped filaments, not textured, from France. After receiving advice from the U.S. Department of the Treasury that those yarns, provided for in Tariff Schedules of the United States Annotated (TSUSA) items 309.3030, 309.3130, 310.0149, and 310.0249, were being or were likely to be sold at less than fair value in the United States, the Commission determined, on October 18, 1978, that there was no injury to an industry in the United States by reason of sales of such yarns. (*Certain Nylon Yarn and Grouped Nylon Filament from France*, Inv. No. AA1921-185, USITC Publication 922, October 1978). The yarns investigated had three major end uses: industrial, carpet, and textile.

Comparison with present law

Tariff treatment under the TSUS.—The rates of duty applicable to the categories which include U.S. imports of certain specialty manmade-fiber yarns used in the manufacture of wigs for dolls, and the scheduled tariff reductions negotiated in the Tokyo round of the Multilateral Trade Negotiations, are shown in table 1. The average ad valorem equivalent (AVE) duties paid on all imports under these categories ranged annually as shown in the following tabulation:

Year:	*AVE*
1980	10.5–21.9
1981	10.5–20.6
1982	10.4–17.5
1983	10.3–16.3
1984	10.3–14.7

U.S. imports of the subject manmade-fiber yarns are not controlled under the Multifiber Arrangement;[9] however, should conditions of market disruption be found to exist, certain provisions of this Arrangement could be implemented. Additionally, these yarns are not subject to duty-free treatment under the Generalized System of Preferences (GSP),[10] or are they eligible for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).[11] U.S. imports of certain specialty manmade-fiber yarns from least developed developing countries (LDDCs),[12] including those used to manufacture wigs for dolls, are eligible for preferential duty rates as shown in the following tabulation:

---

[6] Obtained information during telephone conversation between Commission staff and Charles Bremer on May 21, 1985.

[7] Obtained information during telephone conversation between Commission staff and Bob Umphreys on May 21, 1985.

[8] Obtained information during telephone conversation between Commission staff and Gale Foster on May 21, 1985.

[9] Officially known as the Arrangement Regarding International Trade in Textiles and sanctioned under the General Agreement on Tariffs and Trade, the MFA provides the legal framework for the regulation of the international trade in textiles and apparel through bilateral agreements.

[10] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[11] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidental Proclamation 5133 of November 30, 1983, apples to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[12] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of the duty in column 1 applies.

LDDC rate of duty

TSUS item No.:
309.31 ..... 10% ad valorem
389.62 ..... Not available

Tariff treatment under the proposed Harmonized System (HS).—Certain specialty manmade fiber yarns including those used to manufacture wigs for dolls are classified in part of chapter 54 of the proposed HS.[13] Table 2 shows the nomenclature for the subject yarns and the rates of duty under the proposed HS.

Structure of the domestic industry

Because the level of domestic production of certain specialty manmade-fiber yarns used to manufacture wigs for dolls is low, specific information identifying this sector of the manmade fiber industry is not available. However, it is estimated by the American Yarn Spinners Association that there are fewer than 10 domestic producers.

Domestic production

Industry sources believe that U.S. production of the subject yarn is less than 1 million pounds annually.

U.S. imports

U.S. imports of the subject manmade-fiber yarns, estimated, from official statistics of the U.S. Department of Commerce, at 1% of imports under items 309.31 and 389.62, TSUS, were as follows:

Year	Quantity (1,000 pounds)	Value ($1,000)
1980	106	332
1981	131	406
1982	174	557
1983	325	820
1984	431	1,089

During 1984, the leading sources were believed to be Japan, Taiwan, West Germany, and the United Kingdom. A&B Artistic Wig Corporation expects to import about half a million pounds per year of these yarns for doll wigs.

The leading importers of certain specialty manmade-fiber yarns provided under TSUS items 309.31 and 389.62 and their locations during 1984 were:

ICI Fiber LTD, 104 East Main Street, Norfolk, VA 23514.

Hercules Incorporated, Import Division, Transportation Department, Wilmington, DE 19899.

Kimberly Clark Corporation, Berkeley Mills, Balfour, NC 28706.

J.J. Ryan & Son. Inc., P.O. Box 10221, Greenville, SC 29605.

U.S. exports

It is believed that U.S. exports of the subject manmade-fiber yarns are nil or negligible

Apparent consumption

Annual apparent consumption of certain specialty manmade-fiber yarns used to produced wigs for dolls is not available because the amount of domestic production is not known.

Effect on revenue

The import duties for 1984 that would not have been collected had this legislation been in effect were approximately $138,000 at the column 1 rates.

[13] The Harmonized System is intended to serve as the single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximtely 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

Technical comments

The words "and yarns" in the description of proposed item 905.30 appear to be redundant and should be eliminated, since item 309.31 includes "grouped filaments and strips . . . whether known as tow, yarn, or by any other name."

More importantly, this legislation, if enacted, would apparently create a broader exemption from duty than was intended by the proponents by allowing duty-free importation of certain specialty manmade fiber yarns suitable for purposes other than doll wig making. However, proponents of the bill have indicated to Commission staff that, to remedy this situation, they have submitted to the Committee a suggested change in its language adding an "actual use" provision. TSUS General Interpretative Rule 10(e)(ii), states:

"(ii) a tariff classification controlled by the actual use to which an imported article is put in the United States is satisfied only if such use is intended at the time of importation, the article is so used, and proof thereof is furnished within three years after the date the article is intered."

The requirement for submission to Customs of proof of actual use would ensure that these specialty manmade fiber yarns were imported duty-free only for doll wig making. This change would also eliminate the discrepancy between the title of the bill, which indicates that the bill covers yarns used in doll wigs, and the proposed item description, which actually covers yarns used for other purposes as well.

Proponents of the bill have also indicated, in the same submission, that they are willing to eliminate polypropelene as one of the yarns covered by the proposed item 905.30 in order to meet the objections of domestic producers of the yarn.

Finally, the proposed effective period, "on or before the close of the 3-year period beginning on the 15th day after the date of enactment of this item," should be specified as ending on a date certain, to conform to the usage in the Appendix to the TSUS.

TABLE 1.—CATEGORIES WHICH INCLUDE CERTAIN MANMADE FIBER YARNS USED IN WIGS FOR DOLLS: U.S. RATES OF DUTY, BY TSUS ITEMS

[Percent ad valorem; cents per pound]

TSUS item No.	Description	Pre-MTN col. 1 rate of duty [1]	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
	Grouped filaments and strips (in continuous form), whether known as tow, yarns, or by any other name:										
	Wholly of grouped filaments (except laminated filaments and plexiform filaments):										
	• • • • •										
	Other:										
	• • • • •										
309.31 (pt.)	Valued over 80 cents per pound	10.5%	10.5%	10.5%	10.4%	10.3%	10.3%	10.2%	10.1%	[2] 10%	45%
	• • • • •										
	Articles not specially provided for, of textile materials:										
	Other articles, not ornamented:										
	• • • • •										
	Of man-made fibers:										
	• • • • •										
	Other:										
	• • • • •										
389.62 (pt.)	Other	25¢ + 15%	25¢ + 15%	25¢ + 15%	21¢ + 14%	16¢ + 13%	12¢ + 12%	8¢ + 11%	4¢ + 10%	9%	78.5%

[1] Rate effective before Jan. 1, 1980.
[2] This rate is currently applicable to products from countries designated as "least developed developing countries."

TABLE 2.—HEADINGS WHICH INCLUDE CERTAIN MANMADE FIBER YARNS USED IN WIGS FOR DOLLS: CLASSIFICATION AND RATES OF DUTY UNDER THE PROPOSED HARMONIZED SYSTEM

Heading No.	Article description	Col. 1 (general)	Col. 2
5402	Synthetic filament yarn (other than sewing thread), not put up for retail sale, including synthetic monofilament of less than 67 decitex:		
5402.10.00	High tenacity yarn of nylon or other polyamides	10%/kg.	50%/kg.
	* * * * *		
	Other yarn, single, untwisted or with a twist not exceeding 50 turns/m:		
5402.41	Of nylon or other polyamides:		
	* * * * *		
5402.41.60	Multifilament	10%/kg.	50%/kg.
	* * * * *		
5402.49	Other:		
	* * * * *		
5402.49.60	Multifilament	10%/kg.	50%/kg.
	Other yarn, single, with a twist exceeding 50 turns/m:		
5402.51.00	Of nylon or other polyamides	10%/kg.	50%/kg.
	* * * * *		
5402.59.00	Other	10%/kg.	50%/kg.
	Other yarn, multiple (folded) or cabled:		
5402.61.00	Of nylon or other polyamides	10%/kg.	50%/kg.
	* * * * *		
5402.69.00	Other	10%/kg.	50%/kg.
	* * * * *		
5406	Man-made filament yarn (other than sewing thread), put up for retail sale:		
5406.10.00	Synthetic filament yarn	13%/kg.	55%/kg.

Source: USTR, Trade Policy Staff Committee, "Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System, Revised, Showing Administrative Changes Approved by the Trade" Policy Staff Committee, (September 1984).

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 2306, a bill "To suspend for a three-year period the duty on certain specialty yarns used in the manufacture of wigs for dolls."

The Department of Commerce opposes enactment of H.R. 2306.

H.R. 2306 would suspend the column 1 (MFN) duty on certain yarns used in the manufacture of wigs for dolls. The column 2 (statutory) duty would be unaffected by this legislation. We note that H.R. 2306 specifies that these yarns are provided for under Tariff Schedules of the United States (TSUS) items 309.31 and 389.62. However, finished wigs, not yarns, would enter under TSUS 389.62.

The man-made fiber yarns covered by H.R. 2306 enter the United States under TSUS item 309.31 (grouped filaments other than glass, valued over 80 cents per pound, except laminated filaments and plexiform filaments). The current MFN duty of 10.2 percent ad valorem will be reduced in stages to 10 percent ad valorem as a result of concessions made in the Tokyo Round of trade negotiations. This product is not eligible for duty-free treatment under the U.S. Generalized System of Preferences.

We oppose unilateral tariff reductions which may adversely affect U.S. producers without gaining added opportunities for the United States. As introduced, H.R. 2306 would provide duty-free entry for grouped man-made fiber filaments and yarns that are suitable for a range of end-uses. There are many domestic producers of these filaments and yarns.

We also are opposed to the inclusion of "end-use" provisions in the TSUS such as that provided for in H.R. 2306. Such provisions create onerous and expensive burdens for the Customs Service in its administration of the customs laws.

Revenue loss from enactment of H.R. 2306 cannot be accurately determined inasmuch as TSUS 309.31 is a basket category. Duties collected in 1984 for all imports under TSUS 309.31 were over $600 million. Enactment of H.R. 2306 would have no impact on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

SHARRETTS, PALEY, CARTER & BLAUVELT, P.C.,
Washington, DC, June 28, 1985.

JOSEPH K. DOWLEY, Esq.,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIR: On behalf of our client, A & B Artistic Wig Corp., Long Island City, New York, we submit these comments in support of H.R. 2306. The bill is also supported by Local No. 223, Toy & Novelty Workers Union of America, which represents the employees of A & B Artistic Wig Corp. We also wish to advise the Committee that A & B Artistic, which is the proponent of the bill introduced by its representative, Congressman Thomas J. Manton, is amenable to changes in the text of the bill which should meet the objections of any domestic interested party who might perceive the current language as being overly broad.

A & B Artistic Wig Corp. manufactures doll wigs in three factories located in Long Island City. Those factories employ approximately 250 people. Currently, colored fibers of nylon and polypropelene are used in the making of doll wigs. The company plans on also using a third kind of man-made fiber, modacrylic, in the near future. The company is one of only two doll wig manufacturers in the U.S. A few of the large U.S. toy companies make some of their own doll wigs in-house, but even these companies purchase the fibers therefor from A & B Artistic.

A & B Artistic has found it necessary to source the fibers it uses outside the U.S. Efforts to obtain a supply of the fibers from domestic fiber manufacturers have been unsuccessful, principally because the manufacturers regard such products as specialty items and are unwilling to manufacture the relatively small volume that A & B Artistic wants. The company requires fibers much heavier than those used in making wearing apparel and, furthermore, requires that they be colored in a variety of colors. Because it has been forced to obtain the fibers in Italy (the modacrylic would be sourced in Japan) from the only known manufacturer of such materials in the world, A & B Artistic has had to pay duty in the amount of 10.3 percent ad valorem (for the "uncurled" fibers, classifiable in item no. 309.31 of the Tariff Schedules of the United States (TSUS)), or 13 percent ad valorem plus 16 cents per pound (for the "curled" fibers, classifiable in item no. 389.62, TSUS).

We believe that, given that there is no domestic supplier of the specialty fibers, there is no sound reason why an American manufacturer should have to pay duty on that material that it imports. The rationale of no domestic supply has already led Congress to grant a three-year duty suspension to imports of stuffed dolls, doll skins for stuffed dolls, stuffed or filled toy figures of inanimate objects, and skins for stuffed toy figures of animate or inanimate objects. See item nos. 912.30, 912.34, and 912.36, TSUS. Legislation to extend that duty suspension (H.R 2338) has been introduced. Naturally, the hair on such imported dolls also enters the U.S. duty-free. This situation in effect encourages the manufacture of doll wigs abroad. Therefore, granting a temporary duty suspension for the fibers used by the U.S. manufacturers of doll wigs is only equitable.

We understand that there are those who fear that some importers of fibers or yarns other than those for doll wigs might be able to secure duty free entry under the bill as currently drafted, notwithstanding its intended narrow scope. A change in the text of the bill, such as in the revision enclosed, would remove any such potential.

The enclosure would change the proposed item 905.30 to an "actual use" provision. The pertinent statute (General Interpretative Rule 10 (e)(ii)) sets forth the following rule applicable to such actual use provisions:

"(ii) a tariff classification controlled by the actual use to which an imported article is put in the United States is satisfied *only if such use is intended* at the time of importation, the article *is so used, and proof thereof is furnished within three years* after the date the article is entered." (Emphasis added.)

Therefore, only shipments of the described merchandise which are actually used in the manufacture of doll wigs would be entitled to the duty preference. Any shipments of merchandise used in any other applications would be excluded and would be subject to the regular textile duty rates, even if the fibers were identical in all respects to those used for the doll wigs.

The enclosure would amend item 905.30 in another way, i.e., by dropping polypropelene from the bill's coverage. We are given to understand that this would satisfy

Phillips Fibers of Greenville, South Carolina, which apparently produces polypropylene fibers suitable for use in the manufacture of doll wigs in a few of the colors that our client needs. It is our understanding that polypropylene is in fact not competitive with the nylon or modacrylic. The latter are far more expensive and are used in the higher-quality, higher-priced dolls. Polypropylene is therefore not a suitable replacement for the other types of fibers and is used in a different line of goods. We further understand that Phillips does not produce nylon or modacrylic.

Lastly, it should be noted that the enclosed possible revision was circulated to the American Textile Manufacturers Institute, the Man-Made Fiber Producers Association, and the American Yarn Spinners for comments. To the best of our knowledge and belief, all of these organizations would take a neutral stance and would not object to H.R. 2306, if it were revised as suggested in the enclosure.

We are grateful for the opportunity to comment on the pending legislation and would be pleased to provide any other information that the Committee might require.

Respectfully submitted.

RICHARD M. BELANGER.

Enclosure.

A BILL To suspend for a three-year period the duty on certain specialty yarns used in the manufacture of wigs for dolls

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That subpart C of part 3 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

"9xx.xx	Grouped filaments and yarns, not textured, in continuous form, colored, of nylon or modacrylic, whether or not curled, of not less than 20 denier per filament, to be used in the manufacture of wigs for dolls, provided for in item 309.31 or in item 389.62.	Free	No change	On or before the close of the 3-year period beginning on the 15th day after the date of the enactment of this item"

SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

H.R. 2309

To amend the Tariff Schedules of the United States to provide for the temporary suspension of the duty on nonbenzenoid vinyl acetate-vinyl chloride-ethylene terpolymer, containing by weight less than 50 percent derivatives of vinyl acetate

U.S. International Trade Commission

Section-by-section analysis

H.R. 2309, if enacted, would amend the Tariff Schedules of the United States (TSUS) by inserting new item 912.50. Item 912.50 would suspend the column 1 [1] rate of duty on imports of nonbenzenoid vinyl acetate-vinyl chloride-ethylene terpolymer, containing by weight less than 50 percent derivatives of vinyl acetate, until December 31, 1990. This amendment would be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of enactment of the Act.

Background

Description and uses.—Vinyl acetate-vinyl chloride-ethylene terpolymer is a graft polymer [2] and is used mainly in the manufacture of protective sheathing for fiber optic telecommunications cable.[3] it is essential that the sheating is nonplasticized because a petroleum jelly is first applied to the fiber optic cable and the petroleum jelly chemically attack a plasticized covering.[4] Small quantities of the terpolymer are also used as impact modifiers in the manufacture of rigid plastic profile forms for the construction market.[5]

The terpolymer covered by this legislation is not now produced domestically and reportedly has no directly competitive domestic counterpart in the fiber optics sheathing market. The terpolymer is known to be imported by two U.S. firms at present.

Purpose.—Pantasote, Inc. requested the introduction of this legislation. Pantasote uses imported graft polymers to manufacture a patented plastics compound used to manufacture protective sheathing for fiber optic cable. It is the sole supplier of this

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, hungary, Romania, and Yugoslvia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] A graft polymer is a polymer comprising molecules in which the main backbone chain of atoms has attached to it, at various points, side chains containing different atoms or groups from those in the main chain. The main chain may be a copolymer or may be derived from a single monomer. *Whittington's Dictionary of Plastics*, 2nd ed., Westport, CT, 1978, p. 154.

[3] Fiber optics cable is used chiefly in telephone systems and in military applications. In 1982 about 81 percent of total fiber optic cable production was installed in telephone systems. The Federal Government, primarily the Armed Forces, uses approximately 13 percent of production. The fiber optics market in the United States is estimated at $560 million for 1984 and is projected to reach $725 million in 1985 and climb to $1,650 million by 1989. In 1984–1985 the United States represented an average of more than 60 percent of the worldwide fiber optics market demand. "Fiber Optics Casts New Light on High-Technology Exports," Business America, Apr. 15, 1985, pp. 33–35.

[4] Based on information developed during a telephone conversation with the law firm representing the petitioner. This source reported, however, that Japanese fiber optics technology does not employ a petroleum jelly coating to the cable and, therefore, a plasticized sheathing is frequently used.

[5] Based on information obtained during a conference telephone conversation on May 13, 1985, with the petitioner and counsel. This statement was confirmed by a USITC staff member during a telephone conversation on May 16, 1985, with a representative of the other U.S. importer of this product. That firm at one time purchased the terpolymer from the petitioner and now imports less than 100,000 pounds per year from West Germany for the rigid plastic profile market.

patented material, which it sells to a leading U.S. telecommunications company. The purpose of the proposed duty suspension is to enable Pantasote to continue to profitably manufacture this product, and to enable the telecommunications company to produce fiber optics competitively. No other U.S. company is producing these graft polymers.

Pantasote asserts that there is a very large projected market for the product made using these graft polymers. Therefore, over a period of time, there could be a significant increase in employment as a result of the proposed duty suspension.[6]

Comparison with present law

Tariff treatment under the TSUS.—Vinyl acetate-vinyl chloride-ethylene terpolymer, containing by weight less than 50 percent derivatives of vinyl acetate, is classified under TSUS item 445.48, which provides for other vinyl resins. Item 445.48 has a column 1 duty rate of 6.2 percent ad valorem and a column 2 [7] rate of 43.5 percent. The rate for least developed developing countries (LDDCs) [8] is 5.3 percent ad valorem. Imports under item 445.48 may qualify for the Generalized System of Preferences (GSP).[9] Articles from beneficiary Caribbean countries may qualify for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).[10]

The following column 1 staged rate reductions were negotiated during the Tokyo round of Multilateral Trade Negotiations (MTN) for item 445.48:

Column 1 rate of duty effective on or after January 1

Year:	
Pre-MTN [1]	8.8% ad val.
1980 [2]	8.4% ad val.
1981	7.9% ad val.
1982	7.5% ad val.
1983	7.1% ad val.
1984	6.6% ad val.
1985	6.2% ad val.
1986	5.7% ad val.
1987	5.3% ad val.

[1] Rate effective prior to July 1, 1980.
[2] Rate effective on or after July 1, 1980.

Tariff treatment under the proposed Harmonized System (HS).[11]—The graft polymers, which are the subject of this legislation, are classified under four headings in the proposed HS. These classifications are shown in the following converted schedule: [12]

---

[6] Pantasote, Inc., *Fact Sheet: Graft Polymer Legislation*, Apr. 15, 1985, furnished to the U.S. International Trade Commission by Weil, Gotshal and Manges of Washington, D.C., May 8, 1985.

[7] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[8] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[9] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[10] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[11] The Harmonized System is intended to serve as the single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

[12] Source: Trade Policy Staff Committee, *Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System* (September 1984).

HS No.	Product description (abridged) [1]	Rates of duty	
		Col. 1	Col. 2
3901.30.00	Ethylene-vinyl acetate copolymers	5.3%	43.5%
3904.30.00	Vinyl chloride-vinyl acetate copolymers	5.3%	43.5%
3904.40.00	Other vinyl chloride copolymers	5.3%	43.5%
3905.90.50	Other vinyl polymers	5.3%	43.5%

[1] In the proposed HS, the term "copolymer" covers all polymers in which no single monomer contributes 95 percent or more by weight to the total polymer content.

According to the petitioner for this legislation, the predominate comonomer in the vinyl acetate-vinyl chloride-ethylene terpolymer covered by this legislation is the vinyl chloride monomer. Therefore, the product covered by this legislation would normally enter under HS 3904.40.00. The column 1 rate of duty for any of the classifications, to be effective upon implementation of the HS, is 5.3 percent ad valorem.

Structure of the domestic industry

Pantosote, Inc. produced the terpolymer, which is the subject of this legislation, through most of 1984 at its facilities in Passaic, N.J. At present, there are no domestic producers of the vinyl acetate-vinyl chloride-ethylene terpolymer, and, according to an industry source, no firms are likely to enter this market.[13] Pantosote converts the terpolymer to a compounded material containing fillers and other additives and then sells this compounded material to a single fiber optics manufacturer.

Domestic production

There is currently no domestic production of the product covered by this bill. Pantosote, Inc. reportedly began production of vinyl acetate-vinyl chlordie-ethylene terpolymer in 1981. In 1984 it decided to go offshore to fulfill its needs for the product.

U.S. imports

Official import statistics for the terpolymer covered by this legislation are not available. Imports of this product come from a firm in West Germany that is reportedly the only source producing a terpolymer with the properties necessary to meet the strict standards of the fiber optics industry.[14] Pantosote, Inc. is the principal importer of the product.[15] It began importing this material at the end of 1984 and projects that imports will be less than 5 million pounds in 1985, and will be less than 10 million pounds by 1989.[16] Prior to 1984, imports of this terpolymer were negligible.

U.S. exports

There are no official export data for this terpolymer. An industry source stated that all of its imported terpolymer is converted to a compounded product and the compounded material is then sold to a single domestic fiber optics manufacturer for conversion to a protective plastic sheathing or jacketing.[17]

Apparent U.S. consumption

Apparent U.S. consumption of the terpolymer covered by this legislation is now supplied completely by imports. The U.S. market in 1984 for this product was reported to be less than 5 million pounds annually and it is projected to climb to 5 to 10 million pounds per year by 1989.[18]

---

[13] An official of the petitioner stated during a conference call on May, 13, 1985 that before going offshore to purchase the product covered by this bill it attempted unsuccessfully to interest other U.S. producers in manufacturing the terpolymer. It reportedly ceased production because the current market size could not justify continued operation. This source also stated that not until 1989 will the domestic consumption of this terpolymer reach a level which would have made continued domestic production profitable.

[14] Ibid.

[15] The other importer reportedly imports less than 100,000 pounds per year. (telephone conversation of May 16, 1985).

[16] Based on information obtained during a conference call on May 13, 1985, with petitioner and counsel. The petitioner said there are two types of terpolymer being imported. One type is valued at $822 per metric ton, on an fob basis (or about 37 cents per pound); the other type is valued at $1,750 per metric ton, fob basis (or 79 cents per pound).

[17] Based on information obtained during a conference call on May 13, 1985 with petitioner and counsel.

[18] Ibid.

Effect on revenue

Based on projections of imports of the subject terpolymer, the estimated loss of revenue caused by the proposed legislation would range from $115,000 to $245,000 in 1985 and from $196,000 to $419,000 in 1989, depending on how much of each type of the product is imported.

Technical comments

We suggest using TSUS item 907.83 for the proposed provision in order to maintain the proper number sequence in the Appendix.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 2309, a bill "To amend the Tariff Schedules of the United States to provide for the temporary suspension of the duty on non-benzenoid vinyl acetate-vinyl chloride-ethylene terpolymer, containing by weight less than 50 percent derivatives of vinyl acetate."

The Department of Commerce has no objection to the enactment of H.R. 2309. We suggest that section 2 be revised to provide for an effective date of at least 15 days after the date of enactment. This short delay would permit the United States Customs Service time to notify its field offices and the public of the details of the new law.

H.R. 2309 would suspend the column 1 (MFN) duty on the subject material through December 31, 1990. The column 2 (statutory) rate of duty would be unaffected by this legislation. This plastics material presently enters the United States under Tariff Schedules of the United States (TSUS) item 445.48 with a MFN duty of 6.2 percent ad valorem. The MFN duty will be reduced in stages to 5.3 percent ad valorem by January 1, 1987, as a result of concessions made in the Tokyo Round of trade negotiations. This plastics material is eligible for duty-free treatment under the U.S. Generalized System of Preferences.

Duty-free entry of this material may improve the competitive posture of domestic industries producing fiber optic cable. This material has unique properties which make it desirable for fiber optic cable insulation. Allowing duty-free treatment of this material will help domestic producers of fiber optic cables and related products compete more effectively against foreign producers.

The revenue loss if this bill were enacted cannot be precisely calculated since TSUS 445.48 is a basket category. We estimate current revenues at about $80,000 annually. Enactment of H.R. 2309 would have no impact on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

PANTASOTE, INC.,
Passaic, NJ, June 26, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN GIBBONS: This letter is submitted by Pantasote Inc. in behalf of its major division, headquartered in Passaic, New Jersey, supporting H.R. 2309, which would suspend for a period of four years the duty on nonbenzenoid vinyl acetate-vinyl chloride-ethylene terpolymer, containing by weight less than 50 percent derivatives of vinyl acetate (hereafter referred to as "graft polymers"). Since Pantasote believes there will be no opposition to this bill, this statement will be brief. If unexpected opposition occurs, or if the Committee desires further information, Pantasote is prepared to supplement this statement with any additional information that may be required. For present purposes, we would like to make the following brief points.

1. *Use of Product.*—The graft polymers for which duty would be suspended are used by Pantasote in the manufacture of a non-plasticized compound, tradenamed "PANTALAST" (hereafter "PANTALAST"), which Pantasote sells to a leading U.S. telecommunications company for use in the manufacture of protective sheathing for fiber optic cable manufactured by that company.

2. *Lack of Domestic Sources.*—No U.S. company produces the graft polymers or a comparable product.

3. *Other Domestic Users.*—Pantasote is aware of only one other domestic use of the graft polymers—as an adjuvant to strengthen certain polyvinyl chloride window casings. To our knowledge, the one company involved also imports these polymers. It is our understanding that only a very small amount of the graft polymers are used in this manner.

4. *Reasons for Seeking Suspension of Duty.*—Pantasote seeks a suspension of duty on imported graft polymers in order to remain a viable producer of PANTALAST and to preserve the jobs of the 25 workers currently engaged in the manfacture of this product. In addition, the proposed duty suspension will contribute to the competitiveness of Pantasote's customer's fiber optic cable manufacturing operations.

5. *Absence of Adverse Impact.*—Since there are no U.S. producers of the graft polymers or of a comparable product, the requested suspension of duty will have no adverse competitive impact on any competing U.S. industry.

In view of the important need for the imports which are the subject of this legislation, the lack of domestic production, and the absence of adverse effects, Pantasote Inc. urges the Subcommittee to approve H.R. 2309. Again, if there are any questions concerning the bill, the product involved, or our operations, please do not hesitate to contact me.

We appreciate the Subcommittee's attention to this matter.

Very truly yours,

JOHN E. ERTEL,
Vice President—Manufacturing.

H.R. 2310

To suspend for 3 years the duty on spinning, twisting, and other machines specially designed for wool

U.S. International Trade Commission

Section-by-section analysis

Section 1 of the legislation would amend the Tariff Schedules of the United States (TSUS) to suspend the existing column 1 rate of duty [1] on spinning, twisting, doubling, and other machines specially designed for wool (provided for in TSUS item 670.04). A new tariff item, 921.06, would be inserted in the Appendix to the TSUS to suspend the MFN customs duty for a 3-year period beginning on the 15th day after the enactment of this bill. The provision would also cover machines used to prepare for spinning wool intended for specified applications. Machines for making combed wool (worsted) yarn would be excluded.

Section 2 would make the suspension effective as to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this act.

Background

Description and uses.—The subject machines are used in the preparation of wool and the manufacture of yarns. Twisters, like ring spinners, rely on ring travelers as an essential part of the twisting process. Ring travelers are small, open rings usually made of metal, or in some cases of plastic; they are produced to close tolerances in many sizes and shapes. The weight of the traveler is an important factor—the weight of any 10-metal travelers cannot vary by more than half a grain. If the weight of the traveler is significantly off, the traveler will foul the yarn. Teamed with the spinning spindle and ring, travelers form the heart of the preparatory yarn spinning process. Horns on the traveler fit around the flange of the ring; together they assist the spinning spindle in twisting yarn, applying tension necessary for winding, and in guiding the yarn onto the bobbin as it winds. Moving at a very high rate of speed for long periods of time, the traveler floats around the ring. Instead of being propelled by the machine, it is activated and controlled by the stock in process.

Spinning machines are used to reduce the roving (soft strand of loosely assembled fibers made from sliver for spinning into yarn) to the required fineness, and to twist and then wind the yarn onto a cap, bobbin, or paper tube. The three basic kinds of spinning machines are fly frame spinners, ring spinners, and mule spinners. Fly frame spinners are used primarily to spin worsted and coarser yarns. Fly frames use a two-armed U-shaped device called a flyer, which fits on top of a revolving spindle. The strands of partially processed roving enter one of the arms of the flyer, then travel downward and are wound around a bobbin or tube as the spindle rotates. Ring spinners are the most widely used spinning machine. The spinning process is similar to that used by the fly frame except that, instead of using a flyer, it uses a small weight traveling around a ring (traveler) which simultaneously twists one or more strands of roving into yarn and winds them onto a bobbin. Mule spinners are used primarily to spin soft, finer grade yarns such as wool. The mule spinner is considerably slower than the continuous and fly frame spinners. Mule spinners draw out a length of roving, twist it, wind it onto a cap or bobbin, and then repeat the process.

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

Doubling machines simply take two, three, four or more single strands of sliver untwisted continuous brand of fibers resulting from the carding process) or yarn and wind them onto one cone. The purpose of this operation is to increase the uniformity of the strand with is ultimately to be transformed into finished yarn.

Purpose.—The legislation was introduced on behalf of the members of the Northern Textile Association (NTA), textile fabric manufacturers located primarily in the Northeastern States. The association was primarily interested in machines specifically intended for spinning and carding wool into yarns, since it reports few such machines are domestically produced.[2]

Comparison with present law

Tariff treatment under the TSUS.—Spinning, twisting, doubling, and other machines specially designed for wool are provided for in TSUS item 670.04. This provision includes all machines used to produce yarns from wool; however, the Customs National Import Specialist indicates that identifying those machines which are "specially designed" can be difficult. The current rates of duty under TSUS item 670.04 are shown in table 1, including the column 1 rate and applicable staged reductions granted during the Tokyo round of the Multilateral Trade Negotiations (MTN). The column 2 rate of duty [3] is 40 percent ad valorem. The rate applicable to imports from least developed developing countries (LDDC's) [4] is 4.7 percent ad valorem. Imports from all designated beneficiary countries are eligible for preferential treatment under both the Generalized System of Preferences (GSP) [5] and the Caribbean Basin Economic Recovery Act (CBERA).[6]

TABLE 1.—SPINNING, TWISTING, DOUBLING OR OTHER MACHINES SPECIALLY DESIGNED FOR WOOL: U.S. RATES OF DUTY, BY TSUS ITEM

[Percent ad valorem]

TSUS item No.[1]	Description	Pre-MTN col. 1 rate of duty [2]	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
670.04A	Machines specially designed for producing yarn from wool..	7%	6.7%	6.4%	6.1%	5.9%	5.6%	5.3%	5.0%	4.7%	40%

[1] The designation "A" indicates that the item is currently designated as an eligible article for duty-free treatment under the GSP and that all beneficiary developing countries are eligible for the GSP.
[2] Rate effective prior to Jan 1, 1980.

Tariff treatment under the proposed Harmonized System (HS).—The tariff treatment of spinning, twisting, doubling, and other machines specially designed for wool under the Harmonized System (HS), including the proposed rates of duty set forth in the September 1984 draft converted U.S. tariff schedule, is shown in table 2.

---

[2] Background information obtained from Mr. Carl Spillhouse, President of NTA.

[3] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[4] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[5] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[6] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

TABLE 2.—SPINNING, TWISTING, DOUBLING, AND OTHER MACHINES DESIGNED FOR WOOL: HARMONIZED SYSTEM RATES OF DUTY, BY HS COMMODITY CODE

[Percent ad valorem]

Heading	Article description (abridged)	Rate of duty	
		Col. 1 [1]	Col. 2
8445	Machines for preparing textile fibers; spinning, doubling or twisting machines and other machinery for producing textile yarns:		
8445.20.00	Textile spinning machines	4.2%	40%
8445.30.00	Textile doubling or twisting machines	4.2%	40%
8445.90.00	Other	4.7%	40%

[1] Represents the "general" col. 1 rate.

Structure of the domestic industry and domestic production

According to industry sources, between 30 and 40 domestic firms produce spinning, twisting, doubling or other machinery designed for producing yarn from wool, cotton, synthetics, or blends. Eight of the major U.S. producers are listed on the following page.

Company	Location	Machinery
1. Platt Saco Lowell Corp	Greenville, SC	Spinners, twisters, doublers
2. Whitin Roberts Co	Charlotte, NC	Twisters
3. Leesona Corp	Warwick, RI	Spinning equipment, winders
4. TCI	Gastonia, NC	Doublers
5. Birch Bros. Southern Inc	Waxhaw, NC	Fabric forming machinery
6. Belmont Textile Machinery Co., Inc	Gastonia, NC	Winding for carpet applications
7. Fiber Control Corp	Greenville, SC	Spinning and carding equipment
8. Abbott Machine Co., Inc	Greenville, SC	Spinning machines

Estimated U.S. production of all spinning, twisting, doubling, or other machinery designed to prepare yarns (including those from wool) increased by 12.5 percent from $57.5 million in 1980 to $64.7 million in 1984. Since the majority of these machines are capable of processing wool, cotton, and synthetics, it is not possible to differentiate based on fiber type. Few of these machines are manufactured or designed solely to produce wool, according to industry officials.

U.S. imports

The quantity and value of U.S. Imports entered under TSUS item 670.04 during 1980–84 and Jan.–Mar. 1985 are as follows:

Period	Quantity (units)	Value (1,000 dollars)
1980	262	398
1981	241	1,652
1982	449	657
1983	556	577
1984	391	2,151
Jan.–Mar. 1985	79	205

In 1984, the principal sources of U.S. Imports of these machines were West Germany (accounting for 37 percent of total imports), France (accounting for 36 percent of total imports), and Belgium (representing 22 percent of total imports). Domestic manufacturers identified the following foreign producers as the primary sources of imported machines during the Jan. 1980–Mar. 1985 period.

Firm	Country	Products
Gilbos	Belgium	Doubling winders
Duesberg-Bosson	Belgium	Twisters, winders, spinners
Zinser	West Germany	twisters, spinners
Rieter Machines Works	Switzerland	Twisters
Schubert & Salzer	West Germany	Spinners
Hergeth	West Germany	Spinners
Octir SpA	Italy	Fabric forming machinery
Truetzschler	West Germany	Fabric forming machinery

There were no imports of spinning, twisting, doubling, or other machinery designed for wool from column 2 countries or from countries eligible for benefits of GSP.

U.S. exports

U.S. exports of spinning, twisting, doubling, and other machines for preparing and producing yarns were as follows during 1980–84 and Jan.–Mar. 1985. (U.S. export figures for machinery based on the type of yarn produced are unavailable.)

Period	Quantity (units)	Value (1,000 dollars)
1980	1,749	28.0
1981	1,542	19.6
1982	1,338	16.5
1983	1,075	8.3
1984	1,505	15.1
Jan.–Mar. 1985	129	0.9

Canada and Mexico were the principal markets for exports of spinning, twisting, doubling, and other machinery designed for yarn production (including wool yarns), accounting for 9.8 percent 8.1 percent of total U.S. exports, respectively, during 1984. Other types of machines for preparing and producing yarns (machines not specially designed for wool or for vegetable fibers (except cotton), provided for in TSUS item 670.06) accounted for 91 percent of the quantity and 75 percent of the value of total exports during 1984.

Apparent U.S. consumption

During the period 1980–84, apparent U.S. consumption of all spinning, twisting, doubling, and other machines designed for preparing and producing yarn (including wool yarns) increased from $134.7 million in 1980 to $236.7 in 1984.

Effects on revenue

If enacted, the annual customs revenue loss resulting from the duty-free importation of the subject machinery would average approximately $106,000. This estimate is based on 1984 import levels and on the staged reductions of the tariff rates scheduled to occur in 1986 and 1987. The estimated annual revenue loss during the period 1985–88 is as follows:

Item 670.04

Year:	*(1,000 dollars)*
1985	114
1986	108
1987	101
1988	101

Technical comments

First, since the suggested item number has previously been used, it is recommended that "912.03" be used instead. Second, because of the "dependent" rate of duty for certain parts of spinning, twisting, doubling, and other machinery designed for

wool [7] this legislation would not only provide temporary duty-free treatment for the machines but also for parts of these machines. To avoid this result, headnote 1 to subpart E, part 4 of schedule 6 of the TSUS should be amended by deleting "item 912.04" at each instance and inserting in lieu thereof "items 912.03 and 912.04".

In addition, industry sources have indicated that very few spinning, twisting, doubling or other machines designed for producing yarns are manufactured solely for wool yarn production. The majority of these machines have multiple applications and can, with only minor modification, be used to process wool, cotton or synthetics. Thus, it is possible that, because of the duty suspension, machines designed to produce cotton or synthetics would be imported into the United States labled as machines for wool and duty-free treatment thereby obtained. The proposed article description does not clarify present TSUS language as to what constitutes a machine "specially designed for wool", already a problem for Customs officers. It also contains an "actual use" requirement concerning the first group of machines covered, which is administratively burdensome for Customs. The words "designed to be" could be inserted after "Machines" to avoid that problem.

Finally, it is suggested that a definite date such as "On or before 12/31/88" be inserted in the effective period column of the new tariff item.

Statement of the Northern Textile Association

The Northern Textile Association represents textile manufacturers located principally in the Northeast but also in various other parts of the country. The Wool Manufacturers Council of the Association consists of wool fabric producers who manufacture both the yarn and fabric as part of an integrated manufacturing operation. Over 90% of the woolen system fabric made in the United States is manufactured by members of the Wool Manufacturers Council.

Members of the Wool Manufacturers Council support H.R. 2310, a bill introduced by Congressman Richard T. Schulze. This bill would provide temporary column one duty-free treatment for wool carding and spinning machines by amending the United States Tariff Schedules.

The machines covered by this legislation are used in the production of woolen yarns which are eventually woven or knitted into fabric or sold as handicraft yarns. The end uses of these wool products include apparel, home furnishing and wall covering uses. This equipment is not available from domestic manufacturers and must be purchased from foreign sources. Wool fabric manufacturers regard these purchases as a vital part of their modernization programs and believe that this equipment will enable them to remain competitive in both domestic and international markets. These manufacturers therefore believe that there is no reason for the federal government to impose a duty on these particular machines, currently assessed at 5.6% ad valorem.

Wool fabric manufacturers have been making purchases of this equipment in order to remain competitive with low-cost imported wool products. Since 1980, at least 62 imported spinning frames and 8 cards have been purchased by members of the Wool Manufacturers Council. The spinning frames sell between $70,000. and $200,000., while the cards sell in a range of $400,000. to $900,000. Although there is no common price for the purchase of either of these machines, if the 5.6% ad valorem duty is applied to the average price of these machines, we estimate that a total of $759,920. was paid by these companies in duty since 1980.

The continued purchases of this machinery will be necessary for wool fabric manufacturers to remain competitive. Already, we are aware of one plant with plans of buying five of the larger cards and fifteen spinning frames over the next five years.

In the United States, there are about 40 plants which use this machinery, with approximately 12,000 employees and an estimated annual payroll of $175 million.

During the Multilateral Trade Negotiations concluded in 1979, it was agreed that the U.S. duty on these machines would phase-down from 7% ad valorem in 1979 to 4.7% ad valorem by 1987. This relief is not adequate at this time when manufacturers' purchases of these machines are increasing and there is no domestic alternative source of purchase.

Enactment of H.R. 2310 will be beneficial to American manufacturers as well as consumers. Repeal of the existing duty on these machines will encourage wool fabric manufacturers to continue to replace outdated equipment. Purchase of the new

---

[7] TSUS item 670.74 (parts not specially provided for) applies as the rate of duty for parts of textile machinery the rate for the machine of which they are parts.

equipment without the penalty of a tariff will ensure that wool products will be more competitive at home and abroad.

Purchases of foreign-made machinery should also stimulate employment. The United States wool fabric industry has become increasingly market-conscious, and would be poised to offer traditional wool products as well as alternative products if the penalty for modernizing their plants with state-of-the-art machinery were erased. For these reasons, we respectfully urge the Committee to approve H.R. 2310.

H.R. 2311

To provide duty-free treatment for dicofol until January 1, 1991, after the existing duty reduction for that chemical expires on September 30, 1985

U.S. International Trade Commission

Section-by-section analysis

The proposed legislation would grant a temporary suspension of column 1 rate of duty [1] on 1,1-bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol) classified in item 408.28 of the Tariff Schedules of the United States (TSUS). The legislation would amend item 907.15 in subpart B of part 1 of the Appendix to the TSUS to grant a duty rate of "free" to articles from countries entitled to MFN treatment, commencing after September 30, 1985, and ending on or before December 31, 1990. At present, this Appendix item affords a reduction in the column 1 and least developed developing countries (LDDC) duty rates.[2] The column rates of duty [3] would remain unchanged.

Background

Description and uses.—Dicofol is a synthetically produced chlorinated insecticide (more specifically, a miticide). It is currently being used on cotton, citrus, fruits, field corn, beans, and approximately 60 other types of crops for the control of various species of mites. Other domestically produced miticides are also used to control mites on certain crops; however, Dicofol has the largest number of registered crop uses compared with other miticides. In many instances, Dicofol is the only registered miticide available. Recently, Dicofol has been subject to an EPA review of its registration. The final results of this review are not yet completed, but industry sources believes that Dicofol will pass based on the proposal of Rohm and Haas to reduce significantly the level of impurities using a new process.

Comparison with present law

Tariff treatment under the TSUS.—Dicofol is classified in TSUS item 408.28, covering other insecticides, not artificially mixed, which are provided for in the Chemical Appendix to the Tariff Schedules. Articles entered under item 408.28 are presently dutiable at a column 1 rate of 14.9 percent ad valorem, an LDDC rate of 12.5 percent ad valorem, and a column 2 rate of 7 cents per pound plus 64.5 percent ad valorem.

On January 12, 1984, Public Law 97-446 was enacted, which in its section 133 temporarily reduced the rate of duty on Dicofol to the rate applied to articles classified in TSUS item 408.24. The column 1 duty rate now applied to Dicofol imports as a result of this temporary legislation is 8.6 percent ad valorem.

As a result of the Tokyo round of the Multilateral Trade Negotiations, the column 1 rates of duty for TSUS items 408.24 and 408.28 will be reduced in annual stages through January 1, 1987, as shown in the following tabulation:

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[3] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

TSUS item	Rates of duty effective with respect to articles entered on an after—		
	January 1, 1985	January 1, 1986	January 1, 1987
408.24	8.6%	7.6%	6.9%
408.28	14.9%	13.7%	12.5%

Dicofol, as an article classified in TSUS item 408.28, is currently eligibile for duty-free entry under both the Generalized System of Preferences (GSP) [4] and the Caribbean Basin Economic Recovery Act (CBERA),[5] if imported from designated beneficiary countries.

Tariff treatment under the proposed Harmonized System.—The harmonized System (HS) commodity code number for Dicofol is 2906.29.50, covering other aromatic, cyclic alcohols and their halogenated, sulfonated, nitrated or nitrosated derivatives. The column 1 rate of duty proposed to be effective upon implementation of the HS is 7.2 percent ad valorem.

Structure of the domestic industry

Dicofol has not been produced in the United States during the past five years. Rohm and Haas, the only domestic producer of this miticide, stopped production at its plant in Philadelphia, Pennsylvania, in 1978 because of increasing environmental costs.

Domestic production

There has been no commercial producton of Dicofol in the United States during the past five years.

U.S. imports

According to industry sources, U.S. imports of Dicofol in 1984 amounted to approximately 2.6 million pounds, valued at $5.9 million. The majority of these imports came from Italy and were shipped to Rohm and Haas. U.S. imports of Dicofol from the other foreign source in 1984, from Makhteshim-Agan in Israel, entered free of duty under the GSP. The exact quantity of GSP imports in 1984 is not available, since other chemicals are classified in the same tariff item. The Commission staff did not identify any imports of this product from column 2 sources during 1980–84.

Imports of Dicofol during 1980–84 are shown in the following tabulation: [6]

Year	Quantity (pounds)
1980	2,597,136
1981	2,100,414
1982	[1]2,170,000
1983	1,606,570
1984	[1]2,640,000

U.S. exports

Exact data on exports of Dicofol (technical material) are not available because the product is classified in a residual or "basket" Schedule B provision; however, industry sources believe that exports of this product were small in 1984.[7] According to an industry source, there were exports of formulated products of Dicofol during 1980–84. An estimate of the export quantities of these products during this period is shown in the following tabulation: [8]

---

[4] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[5] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1985. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[6] Estimated.

[7] Value of imports are not available.

[8] Value of exports are not available.

Year:	Quantity (pounds)
1980	132,000
1981	154,900
1982	350,000
1983	55,000
1984	78,000

The major export of formulated products of Dicofol during this period was Rohm and Haas.

Apparent U.S. consumption

Data for domestic consumption of Dicofol are not available; however, an industry source indicated that domestic consumption for the last few years was essentially the same as imports.

Effects on revenue

Based on projected import data from an industry source, the estimated annual revenue loss during 1986–90 would be $600,000.[9]

Technical comments

It might be simpler to draft the legislation as follows:

SECTION 1. Item 907.15 in the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(a) by striking out "8.6% ad val." and inserting in lieu thereof "Free",

(b) by striking out "6.9% ad val.", and

(c) by striking out "On or before 9/30/85" and inserting in lieu thereof "On or before 12/31/90".

SEC. 2. The amendments made by this Act are effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1985.

This avoids any possibility of misprinting the name of this chemical and clarifies the precise changes made in the tariff item.

The title of the bill should be changed to reflect that the duty suspension ends on December 31, 1990.

STATEMENT OF ROHM & HAAS, CO.

SUMMARY

Rohm and Haas Company (the Company) is a multinational manufacturer of chemicals and plastics with principal offices in Philadelphia, Pennsylvania.

The Company imports dicofol for use in the production of formulated miticides, which are then sold in the United States and in other countries. Prior to importing dicofol, the Company manufactured the product in the United States, but discontinued U.S. production in 1978.

There are no commercial manufacturers of dicofol in the United States and, to our knowledge, no commercial applications for dicofol in the United States or elsewhere, other than in formulated miticides. In our judgment, no miticides made in the United States are directly competitive with dicofol.

The revenue that would be foregone as a result of the proposed suspension of duty on dicofol is estimated to be approximately $600 M per year.

RECOMMENDATION

The Company supports the proposed legislation to temporarily suspend the duty on dicofol until 1/1/91, since this product is not manufactured in the United States and its use in controlling mites on a wide variety of crops is of substantial benefit to the United States. Continuation of the reduction, and subsequent suspension of the duty on dicofol will help American farmers hold the line against rising crop production costs in the U.S. and help U.S. farmers remain competitive in world markets.

A DESCRIPTION OF THE PRODUCT AND ITS USES

Kelthane is a registered trademark of Rohm and Haas Company for a family of miticides based on 1,1-bis(4-chlorophenyl)-2,2,2-trichloroethanol (dicofol).

---

[9] Based on annual imports of 2.6 million pounds, valued at $4.8 million during this period. The duty rate is based on the final rate for TSUS item 408.28, 12.5 percent ad valorem.

Dicofol is a chlorinated hydrocarbon developed specifically as a broad spectrum miticide. Crop mites are particularly virulent because they have an explosive reproduction capability, producing as many as 1,400 mites on one leaf of one crop during the important summer-growing months. Such a mite population will destroy in yield and quantity virtually all crops attacked.

Kelthane is used by commercial growers, formulators and the lawn home garden trade. It is used principally on cotton, citrus fruits, field corn and beans, but secondarily on approximately 60 other types of crops.

OTHER END USES

To our knowledge there are no other commercial end uses for dicofol, either as a technical grade, or as a formulated product.

LOCATION OF PRODUCTION FACILITIES

Kelthane is manufactured in Mozzanica, Italy by a wholly-owned subsidiary company, Rohm and Haas Italia. It is imported as a technical grade. After entry, various formulation adjuvants are added to produce a variety of finished products such as emulsifiable concentrate, wettable powder, a dust base material and a concentrate for the commercial formulator market.

OTHER U.S. MANUFACTURERS

Rohm and Haas Company was the only U.S. manufacturer of dicofol until 1978, when it ceased production here. Today (1985), there is no U.S. manufacturer of dicofol. Therefore, it is neither necessary nor desirable to continue to maintain a tariff to protect the American industry.

OTHER OVERSEAS MANUFACTURERS

Dicofol is also manufactured in Israel by Makhtashim. Israeli dicofol is imported into the United States duty-free under the Generalized System of Preferences.

COMPETITIVE PRODUCTS (MITICIDES)

In our judgment, there are no miticides made in the United States which are directly competitive with dicofol. There are other U.S.-produced miticides and there are insecticides which may kill mites, but dicofol is distinctly different. Dicofol chemistry delivers unique features and benefits which make it important and irreplaceable to many U.S. growers, particularly to growers utilizing integrated pest management techniques to reduce pesticide use frequency.

A farmer with a severe mite problem on his crop needs a miticide with several qualities. The product must be harmless to animals grazing, or people working in adjacent fields. It must kill the harmful mites, but not the predator insects which must prey on harmful mites for survival. A farmer must have a miticide to which mites will not build resistance. Dicofol products excel in all the above categories. Kelthane products have been used successfully and faithfully for over 30 years, which is itself proof of its unique features.

Dicofol has been used successfully against a wide variety of harmful mites. Kelthane brand dicofol has by far the greatest number of registered crop uses when compared with other types of miticides. In many instances, Kelthane is the only registered miticide available.

Unlike dicofol, some miticides are harmful to crops at early stages of their growth, unfortunately a period of crop development when the chances of infestation are high. Miticides which are based on propargite can be phytotoxic, i.e., injurious to foliage such as young cotton in various growth stages. Young cotton is subject to vigorous mite attack. In addition, dicofol is a non-restricted miticide whereas chlorobenzilate miticides, for example, are restricted in use and thereby require special handling and equipment.

Because Kelthane was developed specifically to control only harmful mites, it has the advantage of not harming predator insects, which also kill these mites. Broad spectrum insecticides, however, lack this important feature. Since dicofol will not harm mite predators, it is extremely important to growers who use integrated pest management techniques.

Mites' resistance to miticides and insecticides is common, particularly to products based on phosphate chemistry and, more recently, organo-tin chemistry. Many types of mites which build a resistance to phosphate and organo-tin insecticides do not develop a resistance to dicofol. Furthermore, because dicofol is different in chemis-

try from other miticides, it permits a grower to vary his spray program and thus avoid completely, or minimize to a great extent, mite resistance which could occur from repeated use of one-chemistry insecticides or miticides. Dicofol, therefore, is different from, and not competitive with, other miticides or broad spectrum insecticides.

Imports of Dicofol

	000 lbs
1979[1] [2]	1,335
1980[1] [2]	2,597
1981[1] [2]	2,100
1982[1] [2] [3]	2,170
1983[1] [2]	1,607
1984[2] [3] [4]	2,640

[1] Source: United States International Trade Commission Publications 1083, 1163, 1272, 1401 and 1548, Imports of Benzenoid Chemicals and Products.

[2] Includes imports from Israel (Makhtashim) and from Italy (Rohm and Haas Italia).

[3] Estimated number. USITC report 1401 indicated only 217,000 lbs. were imported in 1982. Actual imports are estimated to have been approximately 10 times that amount, or 2,170,000 lbs.

[4] Source: Rohm and Haas Company estimate.

TARIFF CLASSIFICATION

Item 408.28, TSUS—(Subpart C, part 1, schedule 4)

"Products obtained, derived or manufactured in whole or in part from any product provided for in Subpart A or B of this part:
Pesticides:
Not artificially mixed:
Insecticides:
Other:
Products provided for in the Chemical Appendix [10] to the Tariff Schedules. . . ."

DUTY RATE

Column 1 (MFN) rate: 14.9% ad valorem (1985); 12.5% ad valorem (1987).
Temporarily reduced rate (until 9/30/85): 8.6% ad volorem (1985).
The temporary reduction in the rate of duty on dicofol derives from section 133 of Public Law 97-446 of January 12, 1983 (see excerpt—Exhibit A) A summary of the action which gave rise to section 133 is provided in Exhibit B.

PURPOSE OF THE PROPOSED LEGISLATION

As noted above, Public Law 97-446 temporarily reduced the rate of duty on dicofol until 9/30/85. The proposed legislation would provide duty-free treatment for dicofol until Janurary 1, 1991, after the existing duty reduction for dicofol expires on September 30, 1985.

REVENUE IMPACT OF PROPOSED CONTINUED REDUCTION AND SUBSEQUENT SUSPENSION OF DUTY

The revenue that would be foregone as a result of the proposed suspension of the duty on dicofol is estimated to be approximately $600 M [11] per year.

EXHIBIT A 96 Stat. 2340 Public Law 97-446—Jan. 12, 1983

SEC. 133. TEMPORARY REDUCTION OF DUTY ON DICOFOL.

(a) IN GENERAL.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

[10] CAS number for dicofol is 115-32-2.

[11] Includes imports from Italy (producer-Rohm and Haas Italia) only. Imports from Israel (producer-Makhtashim) enter the United States duty-free under the Generalized System of Preferences.

"907.15	1,1-Bis (4-Chlorophenyl) 222 trichloroethanol (Dicofol) (provided for in item 408.28, part 1C, schedule 4).	103% ad val.	7¢ per lb. + 41% ad val.	On or before 9/30/85"

(b) PHASE-DOWN OF TEMPORARY RATE.—Effective with respect to articles provided for in item 907.15 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on and after each of the dates set forth below, column 1 for such item is amended by striking out the rate of duty in effect on the day before such date and inserting in lieu thereof the rate of duty appearing below next to each such date:

Date	Rate of duty:
January 1, 1984	9.5% ad val.
January 1, 1985	8.6% ad val.

(c) SPECIAL RATE FOR LEAST DEVELOPED DEVELOPING COUNTRIES.—The rate of duty on an article provided for in such item 907.15 that is—

(1) entered, or withdrawn from warehouse for consumption on or after the effective date of the amendment made by subsection (a) and before October 1, 1985; and

(2) a product of a least developed developing country;

shall be 6.9 percent ad valorem.

(d) RETROACTIVE PROVISION.—In the case of the application of the amendments made by this section to any entry—

(1) which was made before the 15th day after the date of the enactment of this Act;

(2) which was unliquidated, or the liquidation of which was not final, on such day; and

(3) with respect to which there would have been less duty if the amendments made by this section applied to such entry;

such entry shall be liquidated as though such entry had been made on such 15th day.

EXHIBIT B

ACTION WHICH GAVE RISE TO SECTION 133 OF PUBLIC LAW 97-446, JANUARY 12, 1983—TEMPORARY REDUCTION OF DUTY ON DICOFOL

Since 1922, Congress has protected U.S.-manufactured benzenoid chemicals (formerly called coal-tar products) which compete with imports. Protection was originally provided in the form of a special Customs valuation of imported merchandise known as American Selling Price (ASP). During the Tokyo round of Multilateral Trade Negotiations (MTN) under the General Agreement on Tariffs and Trade (GATT), the United States agreed to eliminate the American Selling Price system of valuation of merchandise for import duty purposes in favor of a system based on transaction value. Since transaction value was lower than American Selling Price, the United States tried to maintain the same overall level of protection by making countervailing increases in the rate of duty on those chemicals which were competitive with U.S.-made products.

The U.S. International Trade Commission (ITC) was given the task of determining which imported benzenoid chemicals were competitive and which were not. During the period deemed representative by the Commission, dicofol was being produced in the U.S. by Rohm and Haas Company, and ostensibly was in need of protection. Within months after the close of the representative period (and, indeed, during the pendecy of the ITC investigation itself), Rohm and Haas Company's U.S. production facilities for dicofol closed and were, therefore, no longer in need of tariff protection. However, neither Customs nor the ITC was advised that dicofol was on longer being produced in the United States, so the chemical was carried on the records of one or both agencies as "competitive."

In 1980, when the ITC preliminarily determined which benzenoid chemicals were competitive for tariff purposes, dicofol appeared on the list long after U.S. production had ceased. Rohm and Haas Company inadvertently did not bring this change of circumstance to the attention of the ITC. The ITC list was approximately 500 pages long, contained over 12,000 chemicals, and the chemicals themselves were not listed in the *Federal Register*.

Absent any clarification from the Company, the ITC reported that dicofol, if imported, would be competitive with Rohm and Haas-produced dicofol. Dicofol was then placed in the Chemical Appendix which is limited to products classifiable at a

rate of duty intended for imported merchandise which competes with products of U.S. manufacture. The irony was that Rohm and Haas, having discontinued production of dicofol in the U.S. in favor of manufacturing dicofol in its own facilities overseas, was now being protected from itself.

The need for legislative assistance

Rohm and Haas considered but rejected both administrative and judical remedies. As a technical grade pesticide, not artificially mixed (containing only the active miticide and related reaction products, but not containing the application adjuvants needed to make it a finished product ready for use in the field), and with a CAS number (115-32-2) which was listed in the Chemical Appendix to the Tariff Schedules, it was clear that dicofol was properly classifiable under item 408.28, TSUS. Since a claim of improper classification per se could not be made, Rohm and Haas concluded that a court would likely hold that the Company's remedy was legislative. The Company therefore sought, through legislation, to restore the rate of duty that was consistent with Congressional intent.

There was no U.S. manufacturer of Dicofol or of any product directly competitive with it

One of the factors considered by Congress in determining whether to grant the type of relief requested was whether there were any other U.S. products which compete directly with the imported product for which import duty relief was sought.

Rohm and Haas located two manufacturers of miticides which perform some of the control functions of dicofol. One was a propargite-based miticide and the second was a chlorobenzilate-based miticide. These two products produce some overlapping, but generally different, results as described in pages 3 through 5 of the Fact Sheet supporting temporary suspension of the duty on dicofol.

Dicofol manufactured by Makhteshim, an Israeli concern, was already being imported into the U.S. but such imports were afforded duty-free treatment under the Generalized System of Preferences (GSP). GSP treatment for the Israeli imports continued after the remedial legislation.

The purpose of the legislation was to restore a rate of duty which would have been imposed had the administrative process been followed

It is a generally accepted principle that the primary function of a tariff provision is to protect the competitive American industry. That legislative goal is reflected in the tariff structure of benzenoid chemicals and in the ASP system of valuation. Since Rohm and Haas discontinued manufacture of dicofol in the United States in 1978, the higher rate of duty imposed on dicofol after the conversion from ASP to transaction value was inconsistent with that Congressional intent.

The purpose of the legislation was to restore to dicofol the rate of duty which would have been imposed by the ITC, during the revision of the Tariff Schedules, if the ITC had been aware of the fact that dicofol was no longer produced in the United States and therefore no longer needed to be protected against competitive imports.

Congressional action

Item 408.24 is a provision for merchandise which our negotiators and our European counterparts determined was not competitive with domestically-made pesticides. Since imported dicofol was never competitive with merchandise concurrently being produced in the United States, it would have been consistent with Congressional intent to apply the same rate of duty to dicofol as that applicable to merchandise imported under item 408.24, a non-competitive rate of duty. Public Law 97-446 accomplished the same goal by creating an eo nomine provision for dicofol under item 907.15, subpart B, part 1, schedule 9, TSUS. The sole drawback to such a remedy is that this legislation, by definition was temporary.

H.R. 2312

To provide for the temporary suspension of the duty on 3,7-Bis(dimethylamino)-phenazathionium chloride (methylene blue) to be used as a process stablizer in the manufacture of organic chemicals

Statement of Rohm & Haas Co.

SUMMARY

Rohm and Haas Company (the Company) is a multinational manufacturer of chemicals and plastics with principal offices in Philadelphia, Pennsylvania.

The Company purchases imported methylene blue for use as a processing stabilizer in the manufacture of organic chemicals, which the Company uses in the manufacture of other products. The chemicals are also sold to other manufacturers of derivative products in the United States and in other countries.

There are no commercial manufacturers of methylene blue in the United States. To our knowledge, no chemical process stabilizers made in the United States are directly competitive with methylene blue.

Methylene blue is also used in a variety of other applications. The Company has no information on the use of methylene blue in these applications, on the quantities used, or whether other U.S.-made products are competitive with methylene blue in these applications. For this reason, the proposed bill is limited to methylene blue to be used as a process stabilizer in the manufacture of organic chemicals.

The revenue that would be foregone as a result of the proposed suspension of the duty on methylene blue is estimated to be approximately $35 M per year for the period 1986 through 1990.

RECOMMENDATION

The Company supports the proposed legislation to temporarily suspend the duty on methylene blue to be used as a process stabilizer in the manufacture of organic chemicals, since methylene blue is not manufactured in the United States and there are no other U.S.-made chemical process stabilizers which have the unique stabilizing characteristics and cost effectiveness of methylene blue in the chemical processes in which it is used.

DESCRIPTION OF THE PRODUCT AND ITS USES

Methylene blue is a benzenoid-based synthetic organic chemical which Rohm and Haas Company uses in the United States as a processing stablizer in the manufacture of organic chemicals.

According to the literature, methylene blue is also used as a dye for cotton and wool in the textile industry, as an indicator in chemical oxidation-reduction reactions, as a biological and bacteriological stain, as an antidote to cyanide poisoning, and as an anodyne and an antiperiodic.

Rohm and Haas has no information on the use of methylene blue in these applications, the quantities used, or whether there might be other uses. For this reason, the proposed bill is limited to methylene blue to be used as a process stabilizer in the manufacture of organic chemicals.

SOURCES

To our knowledge, methylene blue is currently manufactured only by: Hoechst Aktiengesellschaft, F.R. Germany; Hatawagi Chemicals, Limited, Japan.

It was formerly manufactured in the United States, but production was discontinued in December 1978. Today (1985), there is no U.S. manufacturer of methylene blue.

COMPETITIVE PRODUCTS

To our knowledge, there are no other U.S. produced chemical process stabilizers made that are directly competitive with methylene blue. There are other U.S. produced chemical process stabilizers, but none which has the stabilizing characteristics or cost effectiveness of methylene blue in the chemical manufacturing process in which it is used.

Imports of methylene blue [1]

	Lbs. imported [2]
1978	4,410
1979	30,000
1980	94,316
1981	32,777
1982	54,073
1983	36,763

[1] Reported as Basic Blue No. 9.

[2] Source: United States International Trade Commission Publications 1083, 1163, 1272, 1401 and 1548, Imports of Benzenoid Chemicals and Products.

TARIFF CLASSIFICATION AND DUTY RATE

Item 409.74, TSUS—(subpart C, part 1, schedule 4)

"Colors, dyes, stains and related products:
Colors, dyes, and stains (except toners), whether soluble or not in water, obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B or this part:
Basic dyes:
Other:
Products provided for in the Chemical Appendix [1] to the Tariff Schedules—22.7% ad val (*1985) —20% ad val (1987)."

[1] CAS number for methylene blue is 61-73-4.

PURPOSE OF THE PROPOSED LEGISLATION

The proposed legislation would temporarily suspend the duty on methylene blue to be used as a process stabilizer in the manufacture of organic chemicals, until 12/31/90.

Since 1922, Congress has protected U.S.-manufactured benzenoid chemicals which compete with imports, by means of tariffs levied on the imported products. Now that methylene blue, a benzenoid chemical, is no longer manufactured in the United States, and there is no U.S.-manufactured product which is directly competitive with methylene blue as a process stabilizer, it is neither necessary nor desirable to continue to maintain a tariff to protect the U.S. industry, especially since chemicals manufactured in the U.S. with methylene blue and derivative products manufactured from those chemicals compete with similar products imported from foreign countries.

REVENUE IMPACT OF PROPOSED SUSPENSION OF DUTY

The revenue that would be foregone as a result of the proposed suspension of the duty on methylene blue is estimated to be approximately $35 M per year for the period 1986 through 1990.

H.R. 2313

To extend for an additional 3 years the existing suspension of duty on p-Hydroxybenzoic acid

U.S. International Trade Commission

Section-by-section analysis

H.R. 2313, if enacted, would amend the Appendix to the Tariff Schedules of the United States (TSUS) to extend for an additional three years the existing suspension of the column 1 rate of duty [1]for p-hydroxybenzoic acid. The legislation would amend TSUS item 907.00 by striking out "9/30/85" from the effective period column and inserting "9/30/88." The amendment would apply to articles entered or withdrawn from warehouse after September 30, 1985.

Background

Description and uses.—The chemical p-hydroxybenzoic acid (PHBA) is synthetically produced from a derivative of crude petroleum. It is nontoxic and is used primarily to produce a number of esters (e.g., methyl, ethyl, propyl, and butyl p-hydroxybenzoates) known as parabens. Parabens are used as antimicrobial agents for cosmetics, food, and pharmaceuticals. PHBA is also used as a monomer in the synthesis of plastics, fibers, and synthetic adhesives, and as an intermediate in the production of other organic chemicals (e.g., drugs).

Purpose.—Importers of the product claim there is no U.S. production of PHBA. Therefore, they contend that the existing duty suspension should be extended.[2]

Comparison with present law

Tariff treatment under the TSUS.—PHBA is classified in item 404.42, which covers cyclic carboxylic acids and their derivatives. The column 1 rate of duty is temporarily suspended under item 907.00 of the Appendix to the TSUS. The column 2 duty rate [3] is 7 cents per pound plus 48.5 percent ad valorem. The rate for least developed developing countries (LDDCs) [4] is 7 percent ad valorem, currently suspended under TSUS item 907.00. Imports under item 404.42 from eligible beneficiary countries may qualify for duty-free treatment under the Generalized System of Preferences (GS).[5] PHBA imports from designated Caribbean countries may be eligi-

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] Telephone converstation between Commission staff member and member of sponsor's staff.

[3] The rates of duty in the column numbered 2 apply to imported products from those Commuinst countries and areas enumerated in general headnote 3(f) of the TSUS.

[4] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[5] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

ble for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).[6]

The subject merchandise was previously classified under item 404.44, which was established in the Trade Agreements Act of 1979. Item 404.42 was broken out as a separate item in order to provide GSP treatment for PHBA, effective on and after March 31, 1983. The following staged rate reductions were enacted in the Trade Agreements Act of 1979 for item 404.44 [7] pursuant to our adherence to the valuation code negotiated during the Tokyo round of Multilateral Trade Negotiations (MTN):

Year	Column 1 rate effective on and after January 1—
[1]	1.4¢ per pound + 12.1% ad val
1980 [2]	0.7¢ per pound + 12.1% ad val
1981	12.1% ad val
1982	11.3% ad val
1983	10.4% ad val
1984	9.6% ad val
1985	8.7% ad val
1986	7.9% ad val
1987	7% ad val

[1] Rate from which staged.
[2] Rate effective on and after July 1, 1980.

Tariff treatment under the proposed Harmonized System (HS).—[8] According to the September 1984 Trade Policy Staff Committee draft conversion of the TSUS to the HS nomenclature, the commodity code number under the HS for PHBA would be 2918.29.22. The column 1 rate that would be effective if the HS is implemented is 7 percent ad valorem. Since the column 1 rate of duty is currently suspended, PHBA is also listed in chapter 99 of the proposed HS under item 9902.29.20 with a free column 1 duty rate.

Structure of the domestic industry

Owing to increasing production costs and declining profits, PHBA was not produced domestically for several years. Industry sources indicated that contemplated domestic demand could not justify building a PHBA plant that would operate competitively with foreign producers.

However, a domestic chemical firm did begin commercial production of PHBA in May 1985. A company representative stated that a significant investment was made to upscale the pilot plant operation to a commercial level when the company decided to vertically integrate its operation to include the production of both PHBA and parabens. It acted on the assumption that the duty suspension for PHBA would be for three years only. At the time of the original duty suspension proposal, the company stated that it would object to the permanent elimination of the column 1 duty of PHBA, but that a three year temporary duty suspension would be beneficial to it as an importer of this material.

The company representative contended that the reason for this proposal to extend the duty suspension for PHBA is that there is a growing market for PHBA for the production of high temperature plastics (e.g., Tupperware-type products). He sees the domestic PHBA market growing from its current 2 million pounds used for parabens applications to 15 million pounds for parabens and plastics applications by the late 1980's. He expressed concern that the flood of inexpensive, duty-free im-

[6] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[7] These staged reductions also apply to item 404.42.

[8] The Harmonized System is intended to serve as the single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

ports from West Germany, Japan, Taiwan, and possibly Israel, resulting from a duty suspension could prevent his company from effectively competing even in the parabens market.

Currently, the company is captively using its PHBA production to produce parabens. However, it contends that it has the capacity to produce the PHBA required by the domestic market for parabens applications.[9]

Another domestic firm has just completed construction of a plant to produce both PHBA and p-hydroxybenzaldehyde. The company plans to be on stream with PHBA some time during June 1985.

Domestic production

There was no U.S. production of PHBA between 1980–83. In 1984, one producer reported production. However, data cannot be published because they would reveal business confidential information. Processing problems were encountered and production was terminated in 1984. The company has no plans for future PHBA production. During May 1985, the sole U.S. producer came on stream, producing PHBA for its own use in the production of parabens.

U.S. imports

In 1984, U.S. imports of PHBA were 2.5 million pounds, valued at $3.6 million. The main sources of these imports were West Germany (1.6 million pounds), Japan (750,000 pounds), and Taiwan (84,877 pounds). All imports of PHBA from Taiwan were eligible for duty-free treatment under the GSP in 1984. The Commission staff did not find any imports from column 2 sources.

U.S. imports of PHBA for the past five years [10] are as follows:

[In pounds]

Year	*Quantity*
1980	1,753,253
1981	2,503,281
1982	2,167,383
1983	2,022,499
1984	2,469,966

The names and locations of the principal importers are as follows:

Importer	Location
Mobay Chemical Corp.	Pittsburg, PA
Kanematsu-Gosho (USA), Inc.	New York, NY
Wilson Dyes and Chemicals, Inc.	Port Washington, NY
Dastech, Inc.	New York, NY.

U.S. exports

There have been no exports of PHBA for the past five years.

Apparent U.S. consumption

Data concerning domestic consumption of PHBA for the past five years are not available. However, consumption is estimated to have been the same as the quantity of PHBA imported.

Effect on revenue

Based on current demand and uses, the estimated annual loss of revenue would be $300,000 for the next three years, if this legislation were enacted.

DEPARTMENT OF COMMERCE

This letter is in response to your request for the views of this Department on H.R. 2313, a bill "To extend for an additional 3 years the existing suspension of duty on p-Hydroxyben[illegible]ic acid."

The Department opposes enactment of H.R. 2313.

Enactment of H.R. 2313 would extend the suspension of the column 1 (MFN) duty on imports of p-hydroxybenzoic acid through September 30, 1988. The column 2

---

[9] A proponent of this bill has expressed doubt that this company and the other domestic firm discussed below will be able to supply domestic needs for PHBA.

[10] Source: 1980–1983 data, U.S. International Trade Commission, Imports of Benzenoid Chemicals and Products, annual reports. Data for 1984 is from official statistics of the U.S. Department of Commerce.

(statutory) duty would be unaffected by this legislation. The present duty suspension expires September 30, 1985. If there were no suspension of duty, p-hydroxybenzoic acid would enter the United States under Tariff Schedules of the United States (TSUS) item 404.42 with a column 1 (MFN) duty of 8.7 percent ad valorem. Concessions made on this item during the Tokyo Round of trade negotiations will decrease this duty in stages to 7 percent ad valorem on January 1, 1987. This chemical is eligible for duty-free treatment under the U.S. Generalized System of Preferences (GSP).

Enactment of H.R. 2313 would have an adverse effect on two potential domestic producers of p-hydroxybenzoic acid. These manufacturers were not producing this chemical when the initial suspension was granted almost three years ago. One of these firms has invested $2.5 million in a facility to produce p-hydroxybenzoic acid and will be on stream with production shortly. The second firm will augment the U.S. supply with a secondary source of material as the demand increases.

Revenue loss from enactment of this bill is estimated at $305,000. Enactment of H.R. 2313 would have no effect on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to Congress from the standpoint of the Administration's program.

DASTECH INTERNATIONAL INC.,
New York, NY, June 25, 1985.

Re opposition to bill, H.R. 2313.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: We are submitting this letter to express our opposition to the above mentioned Bill for extension of an additional three years the existing suspension of duty on Para-hydroxybenzoic acid (hereby referred to as "PHBA"). Our opposition is on behalf of ourselves dealing as importers for PHBA and that of San Fu Chemical Co., Ltd., 96 Chung Shan North Road, Sec. 2, Taipei, Taiwan, R.O.C. as producers of PHBA. We would like to oppose this Bill for the following reasons:

1. Taiwan, a Beneficiary Developing Country, was granted Generalized System of Preference (duty free status) for PHBA earlier, to enable it to compete against the Japanese and German manufacturers.

2. The two major producers of PHBA, who exported over 1,000 metric tons in 1984 to United States are from two Developed Countries; Ueno Fine Chemicals of Japan and Bayer, A.G. of Federal Republic of Germany. They have been enjoying the major portion of PHBA market in United States, without much competition from anyone else for the past several years.

3. San Fu Chemical Co., Ltd. the Taiwanese Producer exported less than 40 metric tons in 1984, as they were unable to compete against the Japanese and German manufacturers of PHBA. However, once GSP status was granted to them earlier, and since the duty for PHBA from Developed Nations is supposed to go back into effect as of September 1985, they have expanded production in hope of better competition with the German and Japanese producers.

4. Our marketing strategy has been based on the fact that we will be able to be more competitive as of September 1985, since we will import under GSP duty free status whilst PHBA from Germany and Japan would have a duty of about 9 percent ad valorem.

We would like to summarize our opposition by stating that if Bill, H.R. 2313 is passed, it would have the following negative effects; A). It would have defeated the purpose of granting GSP status to producers of PHBA in Beneficiary Developing Countries, and thus nullifying all the effort invested in passing the Bill in the first place, B). It would have wasted our supplier's efforts for expansion, C). Hurt our chances of competing against these major producers from Japan and Germany and put all our current efforts to waste, and last but not least, D). Minimize any chances of domestic production of PHBA in the United States in the near future.

We hope you will find the above reasons sufficient in making a favorable decision. In the meantime, please do not hesitate to call me at 212-661-3060, if you have any questions with regards to our opposition, or if we can be of any further assistance.

Very truly yours,

ROBERT KAHEN, *Vice President.*

STATEMENT OF JAMES H. HARRIS, KALAMA CHEMICAL, INC.

SUMMARY

Kalama Chemical, Inc. supports the extension of the present duty free status of p-hydroxybenzoic (para) acid for an additional three years. Passage of HR 2313 will provide the following results:

1. The U.S. chemical industry will continue to be competitive in the paraben market;
2. Domestic companies producing para acid will not be injured by a continued duty free status because it is our understanding that they are producing at low levels or are producing for captive use.
3. There will be increased research into uses of the product that will further spur employment and diversification of this chemical intermediate.

KALAMA CHEMICAL, INC.

Kalama Chemical, Inc. commenced operation on February 1, 1971, with the acquisition from Dow Chemical Company of a chemical plant located in Kalama, Washington. Through a series of acquisition, Kalama Chemical, Inc. has grown into a national chemical company. Its largest acquisition occurred in December, 1982 when it purchased from Tenneco Chemicals, Inc. a chemical manufacturing plant located in Garfield, New Jersey. The New Jersey plant has been a significant importer of p-hydroxybenzoic acid and competes in the paraben market with other domestic manufacturers and imports from Japan, Taiwan, Israel and Europe.

P-hydroxybenzoic acid is a chemical intermediate with three primary market applications: paraben preservation, specialty coatings, and high performance plastics.

For many years, p-hydroxybenzoic acid has been used to produce a class of preservative known as parabens (specifically, methyl paraben, propyl paraben, butyl paraben, and ethyl paraben). These materials are widely used in the U.S. cosmetics and toiletries industry. In its 1984 report, "Frequency of Preservative Use in Comestic Formulations", the Food and Drug Administration ranked methyl paraben, propyl paraben, and butyl paraben among the five most widely used preservative products. The parabens are particularly effective against fungi and gram positive bacteria, and they occupy a unique cost/performance niche in the U.S. preservative market.

Until recently, the bulk of U.S. consumption of p-hydroxybenzoic acid has been governed by demand for preservatives, such as the parabens, in the cosmetics and toiletries industries. Being mature markets, the market share for the paraben based products has stabilized over the years. Consequently, so has demand for p-hydroxybenzoic acid. Total sales for this use of the acid has leveled at about two and a half million pounds annually.

The continued duty free status of para acid will allow the U.S. industry to remain competitive in the world market for parabens. The present duty free status has allowed for reduced costs of production resulting in a better competitive position in the paraben market. Since the paraben market is a world market, tariff protection on para acid will hurt the domestic industry's ability to compete.

Kalama Chemical has been made aware of the purported domestic production of para acid by two producers. It is our understanding that both of these producers began operations after the introduction of HR 2313. Neither company has offered to sell para acid to Kalama Chemical. In fact, we believe that the joint production of these two plants is not sufficient to satisfy the raw material needs for one of the company's paraben production.

The paraben market is a highly competitive market in which U.S. chemical companies enjoy substantial tariff protection. Failure to continue duty free status for para acid will result in a domestic competitive imbalance and will reduce the domestic industry's ability to provide value added benefits to the economy through the production of parabens.

Kalama Chemical strongly urges the passage of HR 2313.

KANEMATSU-GOSHO LTD.,
Osaka, Japan, June 25, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIRS: We are now writing about "Duty Free" extension on p-Hydroxybenzoic acid under your bills reference No. H.R. 2313.

We do agree to extend the duty suspension by another three years or even more.

We have been exporting this item produced in Japan to Messrs. Kalama Chemical, Inc., Garfield, New Jersey, through our New York Office for annual quantity of about 220 MT or 485,000 lbs.

Kalama are purchasing this item as one of their main raw materials to produce esters of p-Hydroxybenzoic acid (Brand Name: "Parasept"), which are used widely in the U.S. cosmetic industries as anti-molding agents. Therefore, we believe that the extension of "Duty Free" treatment will allow Kalama to produce their material at a competitive price, and then many U.S. cosmetic manufacturers are willing to continue to use it.

From another view point also, it must be fair for U.S. Parasept producers to be able to import p-Hydroxybenzoic acid with free of duty.

Because, Israel is also producing the same material as Parasept and can export their material with free of duty to the U.S.A. under the "Free Trade Area Act" between Israel and the U.S.A.

We sincerely ask you to consider all of above situation and to pay a good attention.

Yours faithfully,

S. TAJIRI,
Assistant Manager, Section No. 3,
Chemicals & Plastics Department.

STATEMENT OF P.G. GEMEINHARDT, DIRECTOR, COMMUNICATIONS AND ADVOCACY FOR CHEMICAL INDUSTRY ISSUES, MOBAY CHEMICAL CORP.

SUMMARY

Mobay Chemical Corporation favors the extension of the temporary duty suspension on p(para) hydroxybenzoic acid (PHBA) for a second three year period, and urges passage of H.R. 2313 because:

American industry will not be harmed by continuing the suspension of duty on imports since there are no U.S. companies known to be producing commercial quantities of PHBA,

PHBA serves an important niche in the U.S. preservatives market being the key ingredient in the manufacture of paraben preservatives which are particularly effective against fungi and gram positive bacteria,

the current suspension of duty on imported PHBA has resulted in lower costs for U.S. paraben producers allowing them to compete more effectively with foreign imports of these finished products, and

the lowest cost of imported PHBA, due to the duty suspension, has been responsible for continued research on new uses that could ultimately provide U.S. consumption levels giving justification for domestic production of this versatile chemical intermediate.

STATEMENT

Mobay Chemical Corporation, whose parent is Bayer AG of Leverkusen, Germany, is headquartered in Pittsburgh, PA. Since its formation in the early 1950's, Mobay has become a diversified manufacturer of chemical intermediates and polymeric resins, supplying products to broad areas of U.S. industry having need for polyurethane raw materials and polymers, agricultural chemicals, dyestuffs, pigments, plastics, coating ingredients, and textile fibers.

Mobay imports PHBA from its parent company, Bayer AG. Bayer is one of three companies throughout the world that manufacturers the chemical and exports to the United States. In addition to Germany (through Mobay), the U.S. market is supplied by imports from Japan and China (Taiwan). At this time, Mobay is not aware of any U.S. companies producing commercial quantities of PHBA.

PHBA is a chemical intermediate with three primary market applications: paraben preservatives, specialty coatings, and high performance plastics.

For many years, PHBA has been used to produce a class of preservatives known as parabens (Specifically, methyl paraben, propyl paraben, butyl paraben, and ethyl paraben). These materials are widely used in the U.S. cosmetics and toiletries industry. In its 1984 report, "Frequency of Preservatives Use in Cosmetic Formulations", the Food and Drug Administration ranked methyl paraben, propyl paraben, and butyl paraben among the five most widely used preservative products. The parabens are particularly effective against fungi and gram positive bacteria, and they occupy a unique cost/performance niche in the U.S. preservatives market. Parabens are produced in the U.S. by Napp Chemical and Kalama Chemical, and the U.S. market is also served by paraben imports, primarily from Japan and China (Taiwan).

Another traditional use for PHBA is in the production of specialty coatings resins. These materials are used to produce plasma spray coatings for jet aircraft engines to improve performance and reduce maintenance costs.

A relatively new use for PHBA is in the production of high performance plastics. These new plastics, with high heat resistance and superior physical properties, are being evaluated for use in consumer goods and industrial parts.

Until recently, the bulk in U.S. consumption of PHBA has been governed by demand for preservatives, such as the parabens, in the cosmetics and toiletries industries. Being mature markets, the market share for the paraben based products has stabilized over the years. Consequently, so has demand for PHBA. Total sales for this use of the acid has leveled at about two million pounds annually.

There have been several results of the current duty suspension on PHBA. First, this action has resulted in lower raw material costs for U.S. paraben preservative producers, allowing them to compete more effectively with imports of finished parabens from overseas.

Secondly, this duty suspension has provided lower raw materials costs for the new high performance plastics already mentioned. Should present use testing of these plastics bear out the superior properties of the materials as determined in the laboratory, we would expect to see substantial increase in demand for PHBA. This would depend, of course, on whether the economics of manufacture were right. Cost, relative to performance, is the key criterion that determines the success or failure of a material in the fiercely competitive environment of the engineering plastics marketplace. Success in this case would provide consumption levels that could ultimately justify domestic production of PHBA.

Mobay strongly supports H.R. 2313 that proposes a three year extension of the suspension of duty on PHBA and urges the Committee to pass on the bill.

NAPP CHEMICALS INC.
Lodi, NJ, June 12, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing you today to express Napp Chemical's very strong opposition to H.R. 2313; a bill proposed to suspend for an additional three years the duty rate on p-hydroxy-benzoic acid (PHBA), now scheduled to automatically resume on 9/30/85.

PHBA is a chemical intermediate used to produce a number of different esters (methyl, ethyl, propyl, and butyl) commonly known as "Parabens". Parabens are primarily used as antimicrobial agents for cosmetics, food and pharmaceuticals. These esters are nontoxic and approved as "GRAS" by the Food and Drug Administration; yet domestic production of Parabens has dropped off precipitously in recent years owing to "inexpensive import competition".

Napp Chemicals, a basic domestic producer of Parabens, has recently completed construction of a new plant in Lodi, New Jersey designed for the sole purpose of producing PHBA. This domestic production, the first of its kind in more than 20 years, is expected to commence later this month. Our investment in this plant was $2.5 million; $2.0 million of which was financed by a loan authorized by the State of New Jersey Economic Development Authority as part of its efforts to develop new job opportunities for New Jersey workers. Accordingly, our Company also committed to this State Agency to provide new job opportunities to the local work force upon completion of construction.

The plant has the capacity to produce four million pounds of PHBA annually; approximately equal to total U.S. domestic consumption for calendar 1984. This plant was also designed so that capacity could be increased to eight million pounds, to satisfy additional domestic demand.

Our Company's investment in this PHBA plant is substantial and the jobs it represents would be seriously jeopardized if the current (self-reducing) 8.7% ad valorem GSP duty rate for PHBA is not reimposed on September 30, 1985, as scheduled. Its reinstatement will partially offset the significant advantages import competition already enjoys.

When our Company decided to make this investment in 1983, PHBA was selling for about $1.90 a pound. As a result of current exchange rates, PHBA now sells for about $1.45 a pound, which is close to our marginal cost of production. If PHBA continues to enter the United States "duty free", we anticipate that production at our new plant will have to be cut back drastically if not totally abandoned; forcing us to lay off most; if not all of those most recently hired. Continued suspension of the duty will also signal to import competition that the Congress sanctions further incursions into our domestic market place.

An extension of the current duty suspension will have a devastating effect on our fledgling new PHBA plant and those recently employed to operate it. We strongly urge that the bill to continue suspension of this duty be defeated so that the duty on this product will be reinstated on 9/30/85, as presently scheduled.

We would be pleased to answer any questions you or your staff may have in this connection and further request the opportunity to present oral testimony in opposition to H.R. 2313 at any hearings that may be held on this bill in the future.

Very truly yours,

HOLBROOK BUGBEE,
Executive Vice President.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 28, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade,
Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my concern over the current legislative proposal to suspend for an additional three years the duty rate on p-hydroxybenzoic acid (PHBA), now scheduled to automatically resume on September 30, 1985. The original tariff suspension was ordered to make PHBA more accessible to American companies at a time when the chemical was not being manufactured in the United States. However, it has recently been brought to my attention that now, for the first time in twenty years, PHBA is produced domestically.

The Department of Commerce has identified two domestic companies which currently produce PHBA. One, Napp Chemicals, a basic domestic producer of Parabens, has recently completed construction of a new plant in Lodi, New Jersey designed for the sole purpose of producing PHBA. The plant has the capacity to produce four million pounds of PHBA annually; approximately equal to total U.S. domestic consumption for calendar 1984. The plant was also designed so that capacity could be increased to eight million pounds, to satisfy additional domestic demand.

Napp Chemicals, which operates in my Congressional District, is quite concerned that they will be unable to compete with the foreign cost of production should PHBA continue to enter the United States "duty free". An extension of the current duty suspension will have a devastating effect on this new PHBA plant and those recently employed to operate it. We in the Congress must ensure that we do not invite unnecessary incursions into our domestic marketplace which threaten our industries.

I would strongly urge that any action on this bill be discontinued in light of these facts. We have the capability to provide PHBA domestically so long as we do not give an unfair advantage to foreign competitors by continuing the duty suspension. I hope you will give the matter careful consideration and look forward to your response.

Sincerely,

ROBERT G. TORRICELLI, *Member of Congress.*

WILSON DYE & CHEMICAL DISTRIBUTORS, INC.,
Port Washington, NY, June 24, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: We oppose the extension for three years of import duty on para-hydroxy benzoic acid originating in developed nations, such as Japan and West Germany.

The suspension of import duty on this product from developing nations is to encourage local production. This we support.

But to grant the same duty suspension to countries like Japan and West Germany removes the advantage intended for the benefit of developing nations.

Sincerely yours,

JAMES A. WILSON,
Chairman of the Board of Directors.

H.R. 2324

To amend the Tariff Schedules of the United States to clarify the duty treatment of certain types of plywood

See statement of California Farm Bureau Federation, Henry J. Voss, under H.R. 110.

U.S. International Trade Commission

Section-by-section-analysis

H.R. 2324, if enacted, would revise headnote 1 to part 3 of schedule 2 of the Tariff Schedules of the United States (TSUS) to ensure that imports of tongued, grooved, lapped, or otherwise edge-worked plywood, wood-veneer panels, and cellular panels would be classified under the tariff provisions for those products rather than as building boards.

The effective date of the bill would be the date of enactment of the legislation.

Background

Description and uses.—The products included in this legislation, plywood, wood-veneer panels, cellular panels, and building boards, are described in the headnotes to part 3 of schedules 2 of the TSUS (reproduced in appendix A). Whether or not they have been edge worked, these products are used for many purposes, including siding, flooring, wall paneling, and roofing. Cellular panels are generally not edge worked.

Purpose.—Plywood sheets are being exported by Canada to the United States as building boards rather than as plywood. This subjects them to a much lower duty rate. By simply altering the edge of a plywood sheet, the merchandise qualifies for classification as building boards under the theory that the edgework dedicates the sheet to some special use. Actually the sheets are used no differently than are plywood sheets with plain edges. This legislation would revise the tariff schedules to insure that only special-use plywood is classified under the building board category.[1]

Comparison with present law

Tariff treatment under the TSUS.—The table on the following pages shows the staged rates of duty which were negotiated in the Tokyo Round of Multilateral Trade Negotiations and which are applicable, under various tariff provisions, to plywood, wood-veneer panels, cellular panels, and building boards.

---

[1] 131 Cong. Rec. E1921 (daily ed. May 2, 1985) (remarks of Mr. Bonker).

PLYWOOD, WOOD-VENEER PANELS, AND BUILDING BOARDS: U.S. RATES OF DUTY, BY TSUS ITEMS

[Percent ad valorem]

TSUS item No.[1]	Description	Pre-MTN col. 1 rate of duty [2]	Staged col. 1 rate of duty effective with respect to articles entered on or after Jan. 1—								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
	Plywood, whether or not face finished:										
	Not face finished, or face finished with a clear or transparent material which does not obscure the grain, texture, or markings of the face ply:										
240.10A	With a face ply of Spanish cedar (Cedrela spp.).	20	18.5	17	15.5	14	12.5	11	9.5	8	40
240.12A	With a face ply of Parana pine (Araucaria angustifolia).	12.5	11.6	10.6	9.7	8.8	7.8	6.9	5.9	5	40
240.14A	With a face ply of birch (Betula spp.)	7.5	6.9	6.4	5.8	5.3	4.7	4.1	3.6	3	50
240.16A	With a face ply of European red pine (Pinus sylvestris).	8.5	8.1	7.7	7.3	6.9	6.5	6.1	5.7	5.3	40
240.17	With a face ply of Philippine mahogany (almon (Shorea almon)), bagtikan (Parashorea plicata), red lauan (Shorea negrosensis), white lauan (Pentacme contorta and P. mindanensis), mayapis (Shorea squamata), tangile (Shorea polysperma) and tiaong (Shorea spp.); meranti (Shorea spp.); red seraya (Shorea spp.); and white serya (Parashorea spp.).	20	17	14	12	10	8	8	8	8	40
240.19A	With a face ply of walnut (Juglans spp.)	20	18.5	17	15.5	14	12.5	11	9.5	8	40
	Other:										
240.21A	With a face ply of softwood	20	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	40
240.23	Other	10	10	10	10	10	8	8	8	8	40
240.25	Other	20	18.5	17	15.5	14	12.5	11	9.5	8	40

	Wood-veneer panels, whether or not face finished:										
	With veneer faces on both sides:										
	Not face finished, or face finished with a clear or transparent material which does not obscure the grain, texture, or markings of the face ply:										
240.30A	With a face ply of Spanish cedar (Cedrela spp.).	20	18.5	17	15.5	14	12.5	11	9.5	8	40
240.32A	With a face ply of Parana pine (Araucaria angustifolia).	12.5	11.8	11	10.3	9.6	8.8	8.1	7.3	6.6	40
240.34A	With a face ply of birch (Betula spp.)	7.5	6.9	6.4	5.8	5.3	4.7	4.1	3.6	3	50
240.36A	With a face ply of European red pine (Pinus sylvestris).	8.5	8.1	7.7	7.3	6.9	6.5	6.1	5.7	5.3	40
240.38A	Other	10	7	4	4	4	4	4	4	4	40
240.40A	Other	10	7	4	4	4	4	4	4	4	40
	With veneer face on one side only:										
	Not face finished, or face finished with a clear or transparent material which does not obscure the grain, texture, or markings of the face ply:										
240.50A	With a face ply of Spanish cedar (Cedrela spp.).	20	18.5	17.1	15.6	14.1	12.6	11.2	9.7	8.2	40
240.52A	With a face ply of Parana pine (Araucaria angustifolia).	12.5	11.8	11	10.3	9.6	8.8	8.1	7.3	6.6	40
240.54A	With a face ply of birch (Betula spp.)	7.5	6.9	6.4	5.8	5.3	4.7	4.1	3.6	3	50
240.56A	With a face ply of European red pine (Pinus Sylvestris).	8.5	8.1	7.7	7.3	6.9	6.5	6.1	5.7	5.3	40
240.58A	Other	10	9.3	8.5	7.8	7	6.3	5.5	4.8	4	40
240.60A	Other	10	9.3	8.5	7.8	7	6.3	5.5	4.8	4	40
240.60A	Cellular panels, whether or not face finsihed	10	9.3	8.5	7.8	7	6.3	5.5	4.8	4	40
	Building boards not specially provided for, whether or not face finished:										
245.80A	Laminated boards bonded in whole or part, or impregnated, with synthetic resins.	2.5¢+4.5	2.3¢+4.2	2.2¢+4	2¢+3.7	1.9¢+3.4	1.7¢+3.1	1.6¢+2.9	1.4¢+2.6	1.3¢+2.3	15¢+25

[1] The designation "A" indicates that the item is currently designated as an eligible article for duty-free treatment under the U.S. Generalized System of Preferences (GSP) and that all beneficiary developing countries are eligible for the GSP.
[2] Rate effective prior to Jan. 1, 1980.
[3] Rate negotiated during the Tokyo round—but modification, which reduces the pre-MTN rate of 20 percent ad valorem to 8 percent ad valorem in 8 equal stages—will not be put into effect until satisfactory progress has been made toward the development of a common North American standard for plywood (joint agreement between the United States and Canada).

Currently, Customs classifies plywood and wood-veneer panels which have been edge worked as building boards under item 245.80, TSUS, at a column 1 [2] rate of duty of 1.3 cents per pound plus 2.9 percent ad valorem (ad valorem equivalent (AVE) equals 10 percent) and a column 2 [3] rate of 15 cents per pound plus 25 percent ad valorem. The rate for least developed developing countries (LDDCs) [4] is 1.3 cents per pound plus 2.3 percent ad valorem. Imports from designated beneficiary developing countries are eligible for duty-free entry under the Generalized System of Preferences (GSP).[5] Imports from designated Caribbean countries are eligible for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).[6]

Recent importations of edge-worked panels classified under item 245.80 have consisted primarily of cedar siding that, when it is not edge worked, is classifiable under item 240.21, TSUS, at a column 1 duty rate of 20 percent ad valorem and a column 2 rate of 40 percent. An LDDC rate was not established for item 240.21. Articles classified under this tariff provision are eligible for the GSP and the CBERA.

A petition was filed under section 516 of the Tariff Act of 1930 (19 U.S.C. 1516) by a domestic interested party contesting Customs' classification of edge-worked plywood as building boards. Customs determined that the classification was correct and the petitioner filed a summons in the Court of International Trade (CIT). The case, *American plywood Association* v. *United States*, Court No. 83–1–00099, is currently pending before the CIT.

Tariff treatment under the proposed Harmonized System (HS).[7]—According to the September 1984 Trade Policy Staff Committee version of the conversion of the TSUS to the proposed HS, the products involved in this legislation would be classified under HS item numbers 4410 through 4412. The classifications and duty rates to be effective for these products, if the HS is enacted, are shown in Appendix B.

Structure of the domestic industry

It is estimated that in 1984 about 400 companies, employing 68,500 people, produced plywood, wood-veneer panels, cellular panels, and building boards. Of these companies, approximately 18 (41 plants), employing 2,000 people, produced softwood plywood siding, which is the major product which would be affected by enactment of the legislation. In 1984, the companies listed below were major producers of such siding:

Evans Products Co., 1121 S. W. Salmon St., Box 3295, Portland, OR 97208

Miller Redwood Co. (subsidiary of Stimson Lumber Co.), Box 68, Forest Grove, OR 97116

---

[2] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's republic of China, Hungary, Romania, and Yogoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[3] The rates of duty in the column numbered 2 apply to imported products from those communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[4] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[5] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[6] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[7] The Harmonized System is intended to serve as the single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

Multnomah Plywood Corp., Box 599, St. Helens, OR 97051
Peninsula Plywood Co. (division of ITT Rayoiner), 439 Marine Dr., Pt. Angeles, WA 98362
Simpson Timber Co., 900 Fourth Ave., Seattle, WA 98164
Southwest Forest Industries, 6225 N. 24th St., Phoenix, AZ 85011

Domestic production

Domestic production of plywood, wood-veneer panels, cellular panels, and building boards amounted to about 20.4 billion square feet, valued at about $4.0 billion in 1982. In 1984 production rose to about 30.3 billion square feet, valued at about $5.45 billion.

U.S. imports

U.S. imports of plywood, wood-veneer panels, cellular panels, and building boards are estimated to have fallen from $620 million in 1979 to $400 million in 1982 as construction activities fell. Imports then rose to $580 million in 1983 and $700 million in 1984 as such activities rebounded.

U.S. exports

U.S. exports of plywood, wood-veneer panels, cellular panels, and building boards are estimated to have risen from $115 million in 1979 to $300 million in 1984 as U.S. producers continued to seek new markets. Exports of edge-worked panels are estimated to have totaled about $55 million in 1984.

Apparent consumption

Consumption of plywood, wood-veneer panels, cellular panels, and building boards fell from 24.5 billion square feet, valued at about $4.5 billion, in 1979, to 20.2 billion square feet, valued at $4.0 billion, in 1982, reflecting a general slump in construction activities. In 1984 approximately 30 billion square feet, valued at about $5.4 billion, was consumed in the United States. The increase reflects a rebound in construction activities. U.S. imports of plywood. wood-veneer panels, cellular panels, and building boards, amounted to about 1 percent of total U.S. consumption of such products in 1984.

It is estimated that in 1984, 1.6 billion square feet, or about 5 percent of total U.S. consumption of plywood, wood-veneer panels, cellular panels, and building boards, was edge worked.

Effect on revenue

The enactment of this bill is not expected to result in any significant change in the volume of the affected edge-worked products entering the United States. Because Canada has a much larger resource base of clear cedar than the United States, Canadian producers are very competitive with U.S. producers. This advantage, coupled with the current exchange rate which favors imports, is expected to result in the increased duty being absorbed by the exporters and/or importers. Thus, roughly a doubling in duty revenue from an estimated $400,000 to $800,000 can be expected because the product primarily affected by the legislation would be dutiable under item 240.21 at approximately twice the rate currently being applied under item 245.80.

Technical comments

There is a typographical error in line 5 on page 2 of the bill. The reference should be to "paragraph (e)" rather than to "paragraph (3)".

The legislation does not provide for modification of the headnote description for cellular panels, as is proposed for plywood and wood-veneer panels. Therefore, it is not clear whether the legislation would have the intended effect of preventing the classification of edge-worked cellular panels as building boards. The proposed modification to the headnote descriptions for plywood and wood-veneer panels should ensure that those products will be classified under the provisions for the respective product, rather than as building boards, whether the panels are edge worked or not. However, Customs might still reach the conclusion that edge-worked cellular panels are other than cellular panels, namely building boards, after enactment of this legislation.

The proposed legislation deletes from the definition of building boards the requirement that they be chiefly used in the construction of walls, ceilings, or other parts of buildings. This change does not appear to be strictly necessary to achieve the purposes of the legislation and broadens the scope of the term to include panels not used in building applications. If this change in scope is not intended, paragraph (3) of section 1 of the bill should be redrafted as follows:

"(3) in paragraph (e) by inserting before "chiefly" "(other than plywood, wood-veneer panels, or cellular panels)".

The bill should be amended to provide for an effective date on the fifteenth day after enactment of the legislation.

GATT considerations

The duty rate on building boards has been bound under Article II of the General Agreement on Tariffs and Trade (GATT). Therefore, if the proposed classification change were construed as an increase in duties, the United States could be subject to claims by affected contracting parties for compensatory concessions, or to retaliatory withdrawal of benefits previously granted to the United States.

Appendix A - Excerpt from part 3, schedule 2 TSUS

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1988)

GSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
			PART 3. - WOOD VENEERS, PLYWOOD AND OTHER WOOD-VENEER ASSEMBLIES, AND BUILDING BOARDS				
			Part 3 headnotes:				
			1. For the purposes of this part, the following terms have the meanings hereby assigned to them: (a) Wood veneers: Wood sheets or strips, regardless of thickness, quality or intended use, produced by the slicing or rotary cutting of logs or flitches; and wood sheets, not over 1/4 inch in thickness, produced by sawing and of a type used to overlay inferior material; (b) Plywood: Rigid wood-veneer assemblies bonded together with adhesive substances having a central ply or core of wood veneer or lumber with one or more plies of wood veneer on each side thereof, the grain of at least one ply being at an angle (usually a right angle) with the grain of one or more of the other plies, including such assemblies the face ply (or plies) of which has been mechanically scored, striated, or similarly processed. (c) Wood-veneer panels: Rigid wood-veneer assemblies, bonded together with adhesive substances, except plywood, with a wood-veneer ply on one side of a backing, or on both sides of a core, which backing or core may be composed of lumber, veneer, hardboard, wood particle board, or other material, including such assemblies the face ply (or plies) of which has been mechanically scored, striated, or similarly processed; (d) Cellular panels: Rigid assemblies bonded together with adhesive substances with both sides or faces consisting of veneer, plywood, lumber, wood-veneer panels, hardboard, wood particle board, or other board composed of vegetable fibers, and with a core of hollow, honeycomb, or sponge-like construction, whether or not the interstices are filled with loose or loosely matted fibrous materials; and (e) Building boards: Panels of rigid construction, including tiles and insulation board, chiefly used in the construction of walls, ceilings, or other parts of buildings.				
			2. The term "face finished", as applied to the boards and panels provided for in this part, means that one or both surfaces of a panel or board have been treated with creosote or other wood preservatives, or with fillers, sealers, waxes, oils, stains, varnishes, paints, or enamels, or have been overlaid with paper, fabric, plastics, base metal or other material.				

Statement of James E. Nolan, Executive Vice President, American Hardboard Association

SUMMARY

1. AHA strongly supports H.R. 2324, a bill that would correct an inaccurate classification decision of the U.S. Customs Service. This decision wrongly classified plywood panels under T.S.U.S. Item No. 245.80, a use provision, since those panels are more properly classifiable under T.S.U.S. No. 240.21, an eo nomine provision.

2. AHA respectfully requests that H.R. 2324 be amended to also clarify the classification of edge-worked hardboard panels. Under a decision of the Customs Service, these panels are improperly classified under T.S.U.S. Item No. 245.9070, a duty-free use provision rather than T.S.U.S. No. 245.30, the more appropriate eo nomine provision. Corrective legislation would help mitigate the unfair disparity in U.S.-Canadian tariffs on hardboard products.

STATEMENT

The American Hardboard Association ("AHA"), the national trade association of eight American and one Canadian manufacturer(s) [1] of hardboard and hardboard products [2] hereby submits this statement in support of H.R. 2324, a bill to clarify the duty treatment for certain types of plywood, notably plywood panels. In addition, AHA strongly urges the Ways and Means Committee to amend this legislation to provide for clarification of the tariff classification for hardboard panels. Both plywood and hardboard panels have been subjected to inaccurate classification decisions by the U.S. Customs Service. These decisions, which have put key segments of the U.S. forest products industry at a severe disadvantage vis-a-vis their Canadian counterparts, should be corrected by legislation.

Under administrative decisions of the U.S. Customs Service, edge-worked plywood panels are classified as "building boards, not specially provided for" under T.S.U.S. Item No. 245.80, a use provision, and are dutiable at the ad valorem tariff rate of 2.9 percent plus 1.6¢ per pound. The American Plywood Association ("APA" unsuccessfully contested this decision before that agency, contending that the appropriate tariff classification is under T.S.U.S. Item No. 240.21 (plywood with a face ply of softwood), an eo nomine provision. Items under this category are suject to a 20 percent ad valorem tariff rate. A major factor in the Customs decision was the addition of minor improvements to the panels, primarily edgeworking which resulted in shiplapped edges for cosmetic purposes and to ease application of the panels to walls. APA is currently appealing the adverse decision of the Customs Service in the Court of International Trade. (See Ct. Int'l Trade Case No. 83-1-0009).

H.R. 2324 would clarify that these plywood articles are not subject to classification under T.S.U.S. Item No. 245.80. AHA strongly supports this legislation. It recognizes, as the Customs Service did not, that the mere addition of minor improvements to an article do not take it out of an eo nomine provision, which Congress intended to cover all forms of the article.

Similarly, a 1980 Customs Service administrative ruling [3] classified prefinished hardboard lap panels having a rabbetted edge and an attached plastic spline as "building boards" under T.S.U.S. Item No. 245.9070.[4] Items classified under this category are entered duty-free. We believe that similar items exported from the United States to Canada are classified under Canadian Tariff Item No. 190200-4, and are assessed an ad valorem duty of 11.1 percent.

Since this reclassification, there has been a surge in Canadian imports entered under this duty-free category. In 1980, Canadian imports classified under T.S.U.S. No. 245.9070 totaled $1,126,135. By 1984, Canadian imports under 245.9070 reached $6,388,037, or about six times the level of four years earlier. (See Exhibit 2.)

The unfair impact of this decision, coupled with the effect that it has had on the domestic hardboard industry, led AHA to vigorously (and unsuccessfully) contest

---

[1] See Exhibit 1 for membership listing.

[2] Hardboard is a generic term for a panel manufactured primarily from inter-felted lignocelluosic fibers (usually wood), consolidated under heat and pressure in a hot press to a density of 31 lb/ft^3 (specific gravity 0.50) or greater, and to which other materials may have been added during manufacturing to improve certain properties. It is used primarily for exterior siding, interior wall paneling, and in household and commercial furniture.

[3] See Customs Ruling CLA-2 RRUGC 061740BF, November 4, 1980.

[4] Other items classified under T.S.U.S. 245.9070 include various types of insulation board. AHA believes, however, that hardboard siding accounts for the vast majority of products imported under this category.

this classification ruling through administrative channels. We have also filed suit in the U.S. Court of International Trade [5] to obtain reclassification of the panels under either T.S.U.S. Nos. 207.00 (Articles of wood, nspf, carrying and ad valorem duty of 5.8 percent) or T.S.U.S. No. 245.30, an eo nomine classification (Hardboard, face-finished, dutiable at 9.0 percent, ad valorem).

Legislative clarification that the hardboard panels currently classified by Customs under T.S.U.S. 245.9070 should be reclassified under T.S.U.S. No. 245.30 would mitigate the outstanding bilateral disparity between U.S./Canadian tariffs applicable to imported hardboard products. For no apparent reason, Canadian tariffs on American hardboard products are substantially higher than those applied by the U.S. to Canadian hardboard products. The current and future extent of this differential tariff treatment is illustrated by the following table which incorporates the staged tariff reductions agreed to in the 1979 "Tokyo Round" of multilateral tariff negotiations:

UNITED STATES-CANADIAN TARIFFS ON HARDBOARD, ADJUSTED PER TOKYO ROUND [1]

	1985	1986	1987
T.S.U.S. Item No.:			
245.00	4.5%	3.8%	3.0%
245.10	4.5%	3.8%	3.0%
245.20	4.5%	3.8%	3.0%
245.30	9.0%	7.5%	6.0%
Canadian Tariff Item No.:			
190200–3	9.3%	7.9%	6.5%
190200–4	11.1%	10.2%	9.2%

[1] Sources: Presidential Proclamation No. 4707, 44 Fed. Reg. 72348, (December 11, 1979); Canadian Customs Service.

Even with two further reductions in tariff rates, the current disparity in the relative tariff treatment of hardboard imports will continue. For Canadian Item No. 190200–3, which most closely approximates the unfinished hardboard described in T.S.U.S. Item Nos. 245.00 through 245.20, the tariff rates will remain more than double those which the U.S. applies to similar hardboard products imported from Canada. And for Canadian Tariff Item No. 190200–4, which covers hardboard that is "face-finished", and thus most nearly parallels the product covered by T.S.U.S. No. 245.30, the Canadians will lower their tariff rate by only 17 percent, while U.S. tariff rates will be cut 33 percent.

A legislative resolution of the unfair, disparate treatment of hardboard products traded between the two nations would be a major step in resolving this situation. AHA does not seek increased tariffs, quotas or other protectionist measures, merely the reclassification of an imported item under its appropriate tariff category. For these reasons, the American Hardboard Association, in addition to its strong support for H.R. 2324, respectfully requests that that bill be amended to clarify that hardboard panels currently classified by the Customs Service under T.S.U.S. No. 245.9070 henceforth be classified under T.S.U.S. No. 245.30.

EXHIBIT 1

AMERICAN HARDBOARD ASSOCIATION MEMBERSHIP ROSTER

Abitibi-Price Corporation, 3250 West Big Beaver Road, Troy, Michigan 48084.

Masonite Corporation, 29 North Wacker Drive, Chicago, Illinois 60606.

Superwood Corporation, 14th Avenue West and Waterfront, Duluth, Minnesota 55802.

Temple-Eastex, Inc., P.O. Drawer N, Diboll, Texas 75941.

Forest Fiber Products Company, P.O. Box 68, Forest Grove, Oregon 97116.

MacMillan Bloedel, Limited, Building Materials Division, 50 Oak Street, Weston, Ontario MN9 IS1.

Champion International Corporation, One Champion Plaza, Stamford, Connecticut 06921.

Evanite Hardboard, Inc., 1115 S.E. Crystal Lake Drive, Corvallis, Oregon 97339.

Weyerhaeuser Company, P.O. Box 9, Klamath Falls, Oregon 97601.

[5] See Ct. Int'l Trade Case No. 83-9-01301. This case poses similar, if not identical issues to those raised before the court by the American Plywood Association.

EXHIBIT 2

U.S. IMPORTS UNDER T.S.U.S. No. 245.9070

[U.S. $ value]

	1980	1981	1982	1983	1984
Imports from Canada	1,126,135	3,365,638	5,003,000	5,448,303	6,338,027
Total U.S. Imports	1,128,452	3,397,561	5,061,000	6,447,039	7,837,028

Source: U.S. Census Bureau, Publication IM-146.

STATEMENT OF THE AMERICAN PLYWOOD ASSOCIATION

SUMMARY

The American Plywood Association supports passage of H.R. 2324, a bill which would clarify the Tariff Schedule of the United States regarding edge-worked plywood panel imports. The current wording in the Headnotes of Schedule 2, Part 3 of the TSUS enables plywood to be imported under two categories at different tariff rates. H.R. 2324 would improve the description of products to avoid discrepancies in duty treatment, job loss, and lost markets for the U.S. wood panel industry.

STATEMENT

American Plywood Association represents producers of more than 81% of the structural panels manufactured in the United States. Members are located throughout the country and include small employee-owned co-ops, privately owned firms, and Fortune 500 corporations.

In Section 2, Part 3 of the Tariff Schedule of the U.S. (TSUS) there are two categories under which softwood plywood panels are being imported into the U.S.: 240.21 covers plywood with a face veneer of softwood whether or not face finished; 245.80 covers "laminated boards bonded in whole or in part or impregnated with synthetic resins," whether or not face finished. Both descriptions cover the manufacturing method of plywood. Items classifiable as 240.21 carry a duty of 20% ad valorem; items in 245.80 carry a duty rate of 6% ad valorem.[1] Either category could apply to plywood destined for the same end use or purpose, and explanatory headnotes are too vague to provide clear guidance to determine the correct duty.

Explanatory headnotes in the tariff schedule describe the categories as follows:

[1] The rate will decline further by 1987 resulting from the Tokyo Round of the Multilateral Trade Negotiations.

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	LDDC	2
			PART 3. - WOOD VENEERS, PLYWOOD AND OTHER WOOD-VENEER ASSEMBLIES, AND BUILDING BOARDS				
			Part 3 headnotes:				
			1. For the purposes of this part, the following terms have the meanings hereby assigned to them: (a) Wood veneers: Wood sheets or strips, regardless of thickness, quality or intended use, produced by the slicing or rotary cutting of logs or flitches; and wood sheets, not over 1/4 inch in thickness, produced by sawing and of a type used to overlay inferior material; (b) Plywood: Rigid wood-veneer assemblies bonded together with adhesive substances having a central ply or core of wood veneer or lumber with one or more plies of wood veneer on each side thereof, the grain of at least one ply being at an angle (usually a right angle) with the grain of one or more of the other plies, including such assemblies the face ply (or plies) of which has been mechanically scored, striated, or similarly processed; (c) Wood-veneer panels: Rigid wood-veneer assemblies, bonded together with adhesive substances, except plywood, with a wood-veneer ply on one side of a backing, or on both sides of a core, which backing or core may be composed of lumber, veneer, hardboard, wood particle board, or other material, including such assemblies the face ply (or plies) of which has been mechanically scored, striated, or similarly processed; (d) Cellular panels: Rigid assemblies bonded together with adhesive substances with both sides or faces consisting of veneer, plywood, lumber, wood-veneer panels, hardboard, wood particle board, or other board composed of vegetable fibers, and with a core of hollow, honeycomb, or sponge-like construction, whether or not the interstices are filled with loose or loosely matted fibrous materials; and (e) Building boards: Panels of rigid construction, including tiles and insulation board, chiefly used in the construction of walls, ceilings, or other parts of buildings.				
			2. The term "face finished", as applied to the boards and panels provided for in this part, means that one or both surfaces of a panel or board have been treated with creosote or other wood preservatives, or with fillers, sealers, waxes, oils, stains, varnishes, paints, or enamels, or have been overlaid with paper, fabric, plastics, base metal or other material.				

HISTORICAL PERSPECTIVE

Softwood plywood panels which have been "edge-worked" (ship-lapped or grooved) are being imported as "building boards" under 245.80 at the lower duty rate rather than under 240.21 ("plywood"), even though the additional manufacturing process of the edges adds about $10 per thousand square feet to the value of the product. It is this discrepancy in the Tariff Schedule that H.R. 2324 would clarify by including in the headnotes definite description of edge working so that any softwood veneer panels laminated to form plywood sheets receive uniform duties. Although marketing literature distributed by one foreign manufacturer actually calls the product "cedar faced plywood panels" (see attached), the item is imported as "building boards." Category 245.80 of the Tariff Schedule includes wood tiles, boards composed from several types of wood products, and insulation boards. Therefore, statistically it is impossible to separate plywood board imports from the other products lumped in this category.

Members of the American Plywood Association have noticed a dramatic increase in the marketplace over the past 6 years of a Canadian product imported under 245.80 which competes with American plywood siding, and import statistics have jumped markedly, as the attached table demonstrates.

Canada's tariff schedule does not provide for a lower duty treatment for plywood or any other panel product which has been edge-worked. All softwood plywood imports to Canada carry a 15% duty.

FUTURE PROBLEMS

American Plywood Association not only is concerned that all plywood panel imports be appropriately categorized, but also that future tariff treatment problems be avoided. For example, presently, the Tariff Schedule nomenclature is undergoing world-wide harmonization. In the wood products section of the proposed Harmonized System, the category "building boards" has been expanded to 8 other wood product items, which in the existing TSUS do not contain such a designation. If this proposed System is adopted, what we are experiencing in plywood imports will occur with imports of particleboard, medium density fiberboard, hardboard and other wood panel products.

NOT TRADE INJURY RELIEF

APA's support for H.R. 2324 is not intended as a form of remedy for damage to our domestic industry resulting from imports. U.S. trade law provides other mechanisms for correcting trade-related injuries. In fact, a case has been pending before the Court of International Trade for 2 years regarding the Customs Service decision to classify Canadian plywood panels as building boards. Changing the Headnote descriptions for panel products should not surprise our trading partners or trigger demands for compensation, whereas in the case with Canada, they have been well compensated over the past 6 years with the tariff break Customs has granted. The trade volume of this product is minimal; compensation claims would be de minimis.

RECOMMENDATION

Congress has the right to improve the Tariff Schedule at any time. Adoption of H.R. 2324 to clarify wood panel product descriptions is needed to avoid future conflicts or tariff treatment which will cause lost jobs and market share for the U.S. panel industries if plywood panels continue to be imported as "building boards" with the lower duty rate.

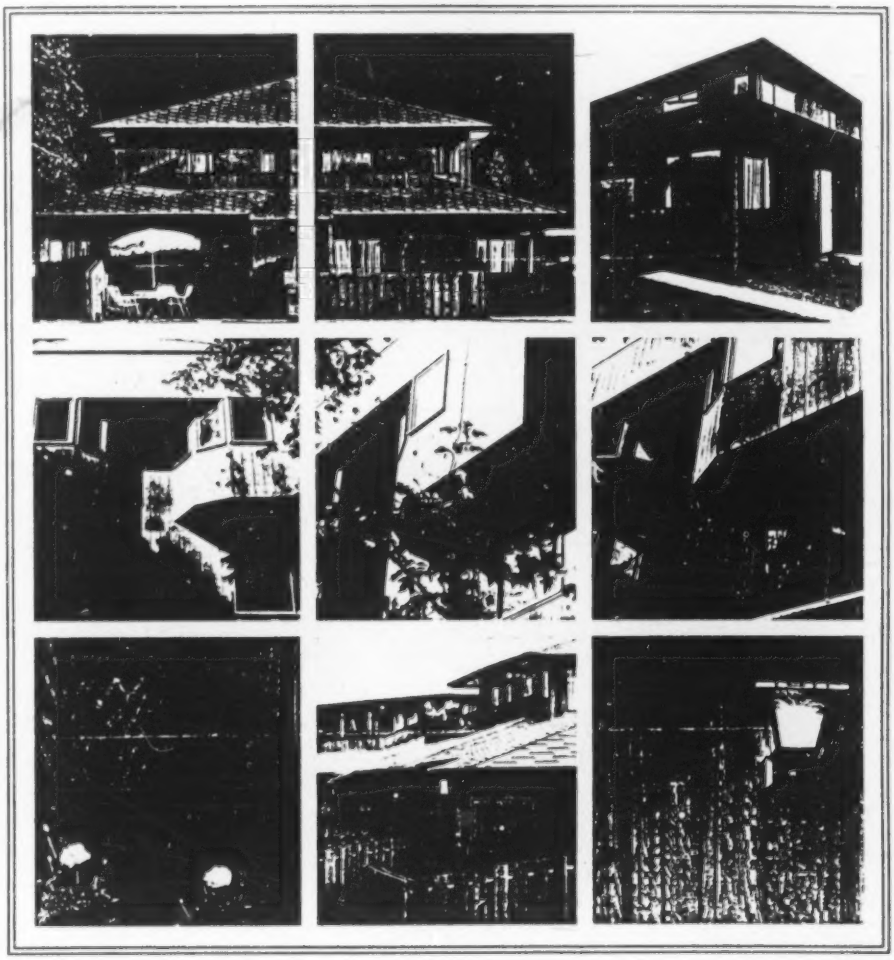
If it looks like plywood, if it's used as plywood, let's call it plywood. We urge the passage of H.R. 2324.

[Millions square feet]

	Imports from Canada U.S. Tariff Schedule Item 245.80 "building boards" [1]	U.S. shipments of softwood plywood siding [2]
1983	6,896	1,364,000
1982	5,365	1,092,000
1981	3,180	1,055,000

	Imports from Canada U.S. Tariff Schedule Item 245.80 "building boards" [1]	U.S. shipments of softwood plywood siding [2]
1980	1,032	1,056,000
1979	97	1,504,000
1978	16	1,579,000
1977	25	1,612,000
1976	2	1,517,000
1975	0.4	1,182,000

[1] Source: U.S. Dept of Commerce
[2] Source: American Plywood Assn.



WESTERN RED CEDAR FACED PLYWOOD PANELS

•CEDARGROVE•

CEDARGROVE plywood siding panels are an exterior grade specialty product conforming to PS 1-74. CEDARGROVE "Knotty" panels are mill certified. A typical TECO stamp is shown at left. For 24" o.c. and grooved texture panels appropriate TECO stamps are used to assure TECO quality control and certification service.

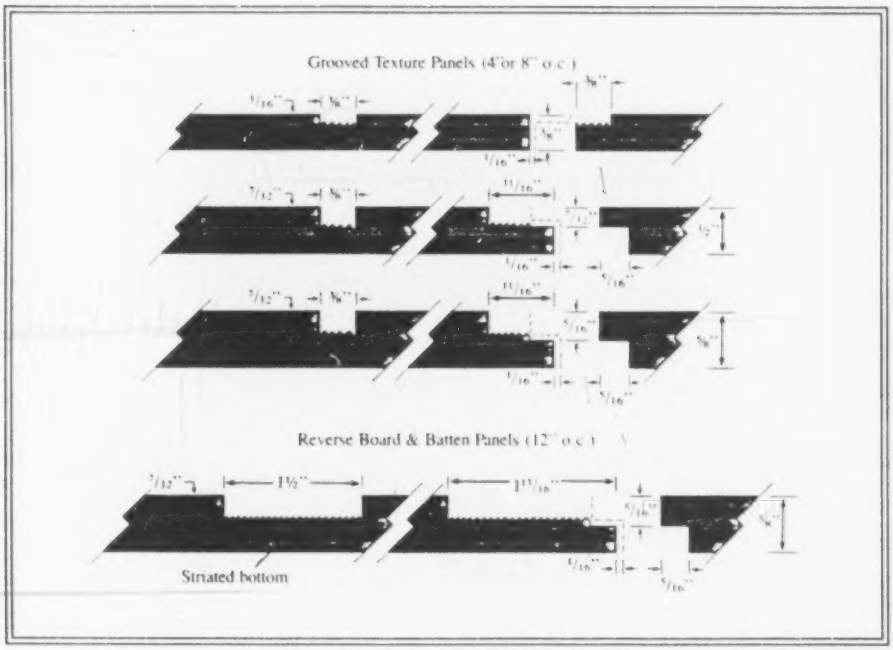
Panels so marked are recognised by HUD/FHA and the major regional model codes.

Plain (ungrooved) panels are available in 3/8", 1/2", and 5/8" thicknesses with square edges; 1/2" and 5/8" thicknesses with shiplapped edges.

Grooved panels are also available in 3/8", 1/2" and 5/8" thicknesses with square edges.

CEDAR FACE SIDING

TECO TESTED PLY PS1-74
EXTERIOR SPECIALTY SIDING
16 INCHES O.C.
FHA - UM 64
SPECIES GROUP 4
MacMillan Bloedel Limited
MILL 181



CEDARGROVE

WASHINGTON, D.C. *June 28, 1985.*

JOSEPH K. DOWLEY, Esq.,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIR: On behalf of our client, Canfor Limited of New Westminster, B.C., Canada, and its Building Materials Division of Custer, Washington we wish to submit comments in opposition to certain of the changes which H.R. 2324 will introduce in the tariff treatment of certain types of plywood, wood-veneer, cellular, and other panels which are currently classifiable duty-free as "building boards" under Item 245.90, Tariff Schedules of the United States (TSUS).

Canfor Limited is a manufacturer of hardboard, particle board, and plywood panels which are chiefly used as interior decorative wall, ceiling, and floor panels. Insofar as the instant bill is concerned, Canfor Limited is most concerned about the proposed change in the definition of the term "building boards," as this change will indirectly affect the classification of hardboard wall panels which are currently duty-free as "building boards" under Item 245.90.

The main result of the bill will be the discontinuation of a Customs long-established administrative practice of classifying as "building boards" various finished plywood, wood-veneer, and cellular panels dedicated to use as wall, ceiling, or floor panels. The practice of the Customs Service with respect to hardboard was summarized in the FEDERAL REGISTER Notice of May 11, 1983 in T.D. 83-104 (Exhibit 1). This notice concludes that certain imported pre-finished hardboard siding was properly classified by the Customs Service under the provision for other building boards of vegetable fiber (including wood fibers) under Item 245.90, TSUS, free of duty, following Customs Headquarters Ruling 061750 of November 14, 1980.

The Customs Service concluded that imported merchandise was processed by more than face finishing in that it has rabbeted and grooved and a plastic spline attached.

In T.D. 83-39, Federal Register Notice of April 21, 1983 (Exhibit 2), Customs Headquarters concluded that certain imported plywood panels that have been processed (i.e. tongued and grooved, edgeworked or ship lapped), were properly classified under Item Q45.80, TSUS, under the provision for building boards.

The effect of the bill is to change the established practice outlined above and to relegate the classification of these finished and "dedicated" panels to tariff provisions under which only the unfinished and unworked "materials" (e.g., plywood, wood-veneer, etc.) are being classified.

The change from a duty-free classification to a dutiable one under the "materials" provision will result in a significant increase in costs to the importers and re-seller of the panels, and will thus adversely affect the entire house-building industry in the United States.

The following comments briefly outline the major effects which the bill will have on the tariff treatment of building boards.

1. *Current Headnote Provisions—*

(a) *Headnote 1, Part 3, Schedule 2 Defines Plywood*

This section defines plywood and wood-veneer panels as follows:

> (b) *Plywood.*—Rigid wood-veneer assemblies bonded together with adhesive substances having a central ply or core of wood veneer or lumber with one or more plies of wood veneer on each side thereof, the grain of at least one ply being at an angle (unsually a right angle) with the grain of one or more of the plies, including such assemblies the face ply (or plies) of which has been mechanically scored, striated, or similarly processed;
>
> (c) *Wood-veneer panels.*—Rigid wood-veneer assemblies, bonded together with adhesive substances, except plywood, with a wood-veneer ply on side of a backing, or on both sides of a core, which backing or core may be composed of lumber, veneer, hardboard, wood particle board, or other material, including such assemblies the face ply (or plies) of which has been mechanically scored, striated, or similarly processed:
>
> * * * * * * *
>
> (e) *Building boards.*—Panels of rigid construction, including tiles of insulation board, chiefly used in the construction of walls, ceilings, or other parts of buildings.

2. *Proposed Changes to Headnote 1, Part 3, Schedule 2, TSUS*

The bill will add the following language to the definitions of the terms "plywood" and "wood-veneer" in paragraphs (b) and (c), respectfully, of Headnote 1, Part 3, Schedule 2, TSUS:

"or any edge of which has been tongued grooved, lapped, or otherwise worked"

The addition of this language will preclude finished and "dedicated" plywood and wood-veneer panels with the said tongued, grooved, lapped, etc., edges from being classified duty-free as "building boards," under Item 245.90, where they are currently classified in accordance with a long-continuing administrative practice.

Up to now, for tariff classification purposes, the Customs Service has distinguished between panels which are still in the "material" stage; and the "dedicated" ready-to-install building panels; which have been subsequently worked by being processed by rabbiting, grooving, edge working or ship lapping. The former were classified under their respective provisions for "material" (e.g., plywood, wood-veneer, hardboard, etc.); and the latter ("dedicated" panels) under the duty-free provision for "building boards" in Item 245.90, TSUS. The criteria for distinguishing between the "material" and the "dedicated" has been the condition of the edges, namely, the panels with tongued, grooved, lapped, or otherwise "worked" edges were considered to have been removed from the "material" state and were, thus, classifiable as "building boards" under Item 245.90.

The addition of the above-stated language to the definitions of "plywood" and "wood-veneer" will result in *both rough panels ("material") and the finished and "dedicated" wall panels being classified under the same tariff porvisions* for the "material," which classification is contrary to the Congressional intent and the current administrative practice.

3. *Proposed Changes In the Definition of the Term "Building Boards" In Paragraph (e) of Headnote 1, Part 3, Schedule 2, TSUS*

The bill will make two important changes in the definition of the term "building boards" as it now appears in paragraph (e) of Headnote 1, Part 3, Schedule 2, TSUS:

Panels of rigid construction, including tiles and insulation board, *chiefly used in the construction of walls, ceilings, or other parts of buildings.*

(a) Addition of the Words "other than plywood, wood-veneer panels, or cellular panels"

By the addition of these words, the bill further ensures that regardless of the condition of the edges of plywood, wood-veneer panels, and cellular panels, these products will not be classified duty-free as "building boards" under Item 245.90. Currently all these people with "worked" edges are classifiable under this duty-free provision.

(b) Exclusion of the Phrase "chiefly used in the construction of walls, ceilings, or other parts of buildings

The exclusion of this "chief use" provision from the definition of the term "building boards" will remove the Congressional-intended meaning and substance from this term, transforming the tariff provisions for "building boards" into broad, general, non-specific classifications.

As already stated, finished and "dedicated" plywood, wood-veneer, hardboard, and other panels with "worked" edges are currently duty-free as "building boards" under Item 245.90, TSUS, under the long established practice of the Customs Service as set forth in the notices of the Federal Register and in T.D. 83-104 and T.D. 83-39.

If the phrase "chiefly used in the construction of walls, ceilings, or other parts of buildings" is excluded from the definition, Item 245.90 will lose its specificity and will become a broad provision covering all rigid panels not specially provided for. As merchandise is classifiable according to the most specific applicable tariff provision (Rule 10(c), TSUS), this classification will have to as "building boards" under Item 245.90 will necessarily yield to other more accurate and specific classifications involving significant customs duties.

In summary, not only will the definition of "building boards" suffer by excluding from its scope plywood, wood-veneer, and cellular panels, but this definition will also be rendered so broad and unspecific that it will lead to the exclusion of most articles which are currently classified as "building boards" under item 245.90.

3. *Recommended Amendment To H.R. 2324*

In order to limit the proposed changes exclusively to the main purpose of the bill, namely, the tariff treatment of plywood, wood-veneer panels, and cellular panels, it is respectfully suggested that the definition of "building boards" in paragraph (e), Headnote 1, Part 3, Schedule 2, TSUS, be amended only insofar as these products are directly concerned, *without the removal from the definition of the "chief use" provision reading:*

"chiefly used in the construction of walls, ceilings, or other parts of buildings."

The definition would, thus, exclude the named three types of panels, but would *not affect the classification of other panels* through the deletion of the "chief use" clause.

The definition of "building boards" in paragraph (e), Headnote 1, Part 3, Schedule 2, TSUS, would then read:

> Panels of rigid construction, including tiles and insulation board, chiefly used in the construction of walls, ceilings or other parts of buildings, *other than plywood, wood-veneer panels, or cellular panels,* [Underlineation denotes language added by H.R. 2324.]

• • •

4. *Conclusion*

The far-reaching consequences of this bill should not be underestimated, and it is requested that the practice of the Customs Service be maintained. Although the changes are intended to be directed only at plywood, wood-veneer and cellular panels, *all panels now classifiable as "building boards" will be affected.* The hardest hit will be the finished hardwood panels which will have to pay a duty of 9% ad valorem under Item 245.30, TSUS, instead of the present duty-free rate as "building boards" under Item 245.90, TSUS.

As the effect of the bill is much broader than would appear from the seemingly limited scope of the proposed changes, a careful study should be undertaken to clarify all the possible effects of the new provisions. In its present wording, the bill should not be adopted because its coverage is considerably broader than its alleged intended purpose. If the bill is to be adopted, it is submitted that the definition of "building boards" be modified as set forth hereinabove.

Very truly yours,

GEORGE R. TUTTLE, *Counsel.*

[Attachments have been retained in the committee files.]

GEORGIA-PACIFIC CORP.
Washington, DC, June 24, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. GIBBONS: Georgia-Pacific Corporation requests that this letter be included in the record from interested parties on tariff and trade bills before the Subcommittee on Trade of the Committee on Ways and Means. Sepcifically, Georgia-Pacific favors H.R. 2324 by Mr. Bonker to amend the Tariff Schedules of the United States to clarify the duty treatment of certain types of plywood.

Georgia-Pacific is a leading manufacturer of softwood plywood in the United States. The company operates plywood facilities in the Northwest, Southeast and Southwest.

The company supports passage of H.R. 2324 to correct a tariff interpretation by the U.S. Customs Service on softwood plywood products imported from Canada. A failure to correct the problem will result in a continued loss of tariff revenue and an unfair disparity on certain plywood panels shipped into the United States from Canada.

The U.S. tariff rate (TSUS 240.21) for softwood plywood imported from Canada into this country is 20 percent. The category for "building board" (TSUS 245.80) has an effective tariff rate of about 10 percent (3.1 percent ad valorem plus 1.7 cents per pound). In recent years, the U.S. Customs Service has permitted Canadian producers to use the building board classification for softwood plywood that has been edge-worked (i.e., tongue and grove or shiplapped). Edge-worked plywood panels are a common production item in U.S. plywood plants and the end use of these panels is little different from non-edged panels. A serious disparity exists when plywood can be shipped under two different tariff rates. Traditional building board products should continue to move at the reduce rate, but plywood should not be split into two different categories.

The American Plywood Association (APA) is submitting a more detailed statement of the problem and urging its correction through enactment of H.R. 2324. Georgia-Pacific is a member of the APA and fully endorses its recommendations to the Subcommittee.

In summary, Georgia-Pacific Corporation believes that the present interpretation of allowing edge-worked softwood plywood to be imported as building boards is incorrect and that a loophole has been created at the expense of U.S. plywood produc-

ers. H.R. 2324 will correct this error by clarifying that merely edge-working a plywood panel does not materially change its end use.

Respectfully submitted.

THOMAS F. MITCHELL, *Vice President.*

STATEMENT OF MACMILLAN BLOEDEL, INC., BUILDING MATERIALS DIVISION

SUMMARY

H.R. 2324 is objectionable for the following six reasons and should therefore be disapproved by the Subcommittee on Trade and the Committee on Ways and Means:

1. It is based on a misunderstanding of the provision in the Tariff Schedules of the United States concerning building boards.
2. It purports to close a "loophole" that is, in fact, nonexistent.
3. It would prejudge an issue now before the U.S. Court of International Trade.
4. It would violate U.S. obligations under the General Agreement on Tariffs and Trade (GATT) and injure other U.S. industries.
5. It cannot be justified on economic grounds.
6. It is, despite the claim to the contrary, protectionist in nature.

STATEMENT

This statement is presented on behalf of the MacMillan Bloedel Building Materials Division of MacMillan Bloedel Inc., a U.S. Corporation that is owned by MacMillan Bloedel Limited, Vancouver, British Columbia. MacMillan Bloedel Building Materials Division imports and distributes lumber and other products manufactured by MacMillan Bloedel Limited, including building boards.

H.R. 2324 was introduced by Congressman Bonker (D–Wash.) on May 2, 1985. Congressman Bonker explained the bill in his statement that was printed at page E 1921 of the May 2, 1985, Congressional Record. A copy of that statement is attached.

The Tariff Schedules of the United States (TSUS) provide for softwood plywood in item 240.21. The TSUS also contain two provisions covering building boards—items 245.80 and 245.90. Item 245.80 covers laminated boards, and item 245.90 covers other boards made from vegetable fibers. It is reasonably clear from Congressman Bonker's statement that his bill is directed against item 245.80 and not item 245.90, particularly since it refers only to the rate of duty applicable to item 245.80. The rate of duty under item 240.21 is 20%, while the rate of duty under item 245.80 is effectively 10% according to Congressman Bonker's statement.

In the case of MacMillan Bloedel Inc., the product in question is an exterior-grade, cedar-faced siding panel that is edge-worked, as by being shiplapped. The cedar facing provides durability against exposure to various weather conditions. The edge-worked joint affords a weather-tight joint between panels. The face of the panel is texturized to provide a rough-sawn appearance, and it is grooved at intervals for decorative purposes to simulate the appearance of boards. The product is used almost entirely as exterior siding on walls of houses. It is no longer plywood, and it is not saleable or useable for the applications for which plywood is typically used.

Against this background, the bill is objectionable for the following six reasons.

First, the bill is based upon a misunderstanding of item 245.80, which covers laminated building boards. As defined in headnote 1(e) of part 3 of schedule 2 of the TSUS, building boards are panels of rigid construction that are "chiefly used in the construction of walls, ceilings, or other parts of buildings". Therefore, mere edge-working of plywood does not in and of itself qualify the plywood as laminated building boards. The U.S. Customs Service (Customs) must determine that the edge-worked plywood is chiefly used in the construction of parts of buildings. As noted above, MacMillan Bloedel's product is significantly different from plywood and satisfies all the criteria for classification as building boards.

Second, the bill purports to close a "loophole" that is, in fact, nonexistent. Plywood that has been edge-worked and that is chiefly used in the construction of parts of buildings has been classified as building boards since 1968. In fact, Customs has issued several formal rulings since 1968 classifying such plywood as building boards. Reliance upon such Customs' rulings over a period of about 17 years hardly constitutes the exploitation of a "loophole".

Third, the bill would prejudge an issue that is now before the U.S. Court of International Trade (CIT). On August 25, 1983, the American Plywood Association (APA) filed with the CIT a complaint against the U.S. Government, taking the position that the edge-worked plywood should be classified not as building boards but as ply-

wood. The U.S. Government filed its answer to the complaint on October 31, 1983. Since then, APA has engaged in pre-trial discovery. MacMillan Bloedel Inc. is a party in interest in the action. Trial is not expected for several months, and the CIT is not likely to issue its decision before the fall of 1985. The Congress should therefore defer any action until the courts have finally resolved the issue.

Fourth, the bill would violate the General Agreement on Tariffs and Trade (GATT) and thereby injure other U.S. industries. The rate of duty in item 245.80 is bound in the U.S. Schedule XX to the GATT. That is, the United States has undertaken a formal international obligation not to change that rate except in accordance with specific procedures prescribed by the GATT. Since H.R. 2324 would not comply with such procedures, it would violate the U.S. obligation. Such violation would cause other U.S. industries to suffer. The United States would either have to pay compensation in the form of reduced duties on imports or suffer retaliation in the form of increased duties on exports.

Fifth, the bill cannot by any stretch of the imagination be justified on economic grounds. Whether Canadian imports of edge-worked plywood in 1984 are compared to the apparent U.S. consumption of building boards or compared to the apparent U.S. consumption of all plywood in 1984, the import-consumption ratio is minuscule. Taking 5/8" as the standard thickness of building boards, which are typically edge-worked, Canadian imports of edge-worked plywood were 1.6 million square feet and the apparent U.S. consumption of all types of building boards, including edge-worked plywood, was 1.5 billion square feet—for an import-consumption ratio of 1/10 of one percent in 1984. Taking 3/8" a the standard thickness used in plywood reporting, Canadian imports of edge-worked plywood were 2.6 million square feet and the apparent U.S. consumption of all plywood was 19.7 billion square feet—for an import-consumption ratio of 1/100 of one percent in 1984. In 1985 Canadian imports of edge-worked plywood are expected to fall substantially below their 1984 level. Such imports could not possibly cause or threaten any injury to the domestic industry. Congressman Bonker's allegation of loss of jobs resulting from such imports is thus totally without foundation.

Sixth, the bill is, despite the claim to the contrary, protectionist in nature. In his statement, Congressman Bonker asserts that the bill "should not be regarded as protectionist". Yet it would double the rate of duty of building boards, and it would do so in opposition to 17 years of consistent Customs' rulings, in violation of U.S. obligations under the GATT, and without the slightest economic justification. On this basis, it would be hard to find a bill that better typifies protectionism.

This statement is submitted on behalf of MacMillan Bloedel Building Materials Division of MacMillian Bloedel Inc. by its Washington, D.C., counsel, John B. Rehm, Busby, Rehm and Leonard, P.C., 1629 K Street, N.W., Suite 1100, Washington, D.C. 20006 (202) 857-0700.

[Attachment has been retained in the committee files.]

Statement of John Ward, Vice President, International Trade, National Forest Products Association

The National Forest Products Association endorses the passage of H.R. 2324, a bill introduced by Representative Bonker (D-WA) which would clarify the Tariff Schedule of the United States (TSUS) regarding edge-worked plywood panel imports. NFPA represents over 2,000 companies involved in the manufacture and marketing of plywood and other wood products throughout the U.S. and Canada.

The current wording in the Headnotes of Schedule 2, Part 3 of the TSUS enables plywood to be imported under two categories, 240.21 and 245.80 at different rates. H.R. 2324 improves the description of products to avoid discrepancies in duty treatment and closes a loophole that has enabled foreign producers to get their plywood products classified as building boards with a much lower duty.

Part 3 of Schedule 2 includes two categories under which softwood plywood panels are being imported into the United States: 240.21 covers plywood "with a face ply of softwood" whether or not face finished and 245.80 covers "laminated boards bonded in whole or in part, or impregnated, with synthetic resins" whether or not face finished. According to our plywood producers, both descriptions cover the manufacturing method of plywood. However, while panels imported under the 240.21 category carry a duty of 20 percent ad valorem; items falling under 245.80 only carry a tariff rate of 6 percent ad valorem.[1]

---

[1] This rate will decline further by 1987 when the MTN tariff reductions will have to be completed.

In addition, the explanatory headnotes of part 3 are too vague to provide clear guidance to the Customs Service to assess the correct duty. H.R. 2324 would amend these headnotes in order to make it clear beyond doubt which item falls under which category. For instance, headnote 1(e) which refers to "building boards" would be changed to read: "Panels of rigid construction, including tiles and insulation board, other than plywood, woodveneer panels, or cellular panels."[2]

Softwood plywood panels which have been "edge-worked" (shiplapped or grooved) are being imported as "building boards" under 245.80 at the lower duty rate rather than under the plywood category, 240.21. H.R. 2324 would close this loophole by providing a clear description of edgeworking so that softwood veneer panels laminated to form plywood sheets receive uniform duties.

HISTORY

The items covered under 245.80 include various products, such as wood tiles, boards composed from several types of wood products, and insulation boards. therefore, it is statistically impossible to sort out the plywood products that have come in under this category. However, there has been a tremendous increase of imports under what the U.S. Bureau of the Census has termed "other panel products".

Canadian plywood producers appear to have benefited the most. Over a five year period from 1979 to 1984 "other panel products" imports from Canada have increased from $4.4 million to about $15 million, a 29 percent increase. Total U.S. imports of "other panel products" during this period grew from $5 million to $20.5 million (see attached tables).

Canada's tariff schedule, however, does not provide a lower duty for plywood or any other panel product which has been edge-worked. All softwood plywood imports to Canada carry a 15 percent duty. Neither do the tariff schedules of any other country. Therefore, H.R. 2324 brings the U.S. Tariff Schedule into closer conformity with international standards. It is hoped that the new tariff system which will harmonize tariff schedules throughout the world will incorporate the changes suggested by H.R. 2324.

We would like to thank the Chairman of the Ways and Means' Trade Subcommittee for giving us the opportunity to comment on this legislation most important to our plywood producers. We urge the passage of H.R. 2324 without any weakening amendments.

U.S. IMPORTS OF SOLID WOOD PRODUCTS FOR 1979–84 PREPARED BY FOREST PRODUCTS DIVISION, USDA, FOREIGN AGRICULTURAL SERVICE

[Customs value basis, in thousands of dollars]

Country/Commodity	1979	1980	1981	1982	1983	1984
All countries:						
Softwood logs	26,445	17,349	16,976	22,930	24,103	14,625
Hardwood logs	2,732	2,804	2,714	3,500	3,331	4,741
Poles, piles and posts	10,137	10,982	12,849	10,546	14,262	14,794
Wood chips	30,447	45,899	51,399	51,537	49,104	45,396
Softwood lumber	2,456,522	1,762,477	1,694,902	1,566,577	2,460,788	2,552,526
Hardwood lumber	158,045	127,560	135,864	87,894	115,839	136,345
Softwood flooring	301	88	46	257	88	232
Hardwood flooring	24,207	16,216	10,825	9,711	14,393	31,870
Siding	82,542	53,398	59,137	50,833	103,021	114,943
Molding	93,691	64,930	71,510	67,547	88,476	97,562
Treated and edge-glued lumber and siding	13,178	13,346	12,465	9,993	6,562	12,766
Railroad ties	3,614	4,679	3,965	2,776	1,902	4,960
Softwood veneer	18,793	15,848	10,714	12,839	15,193	16,394
Hardwood veneer	99,166	78,744	93,536	76,818	112,748	123,128
Softwood plywood	6,149	8,413	6,498	5,199	10,866	16,481
Hardwood plywood	584,821	401,045	458,247	326,009	440,328	421,964
Hardboard	39,607	32,713	42,095	30,908	46,416	53,087
Particleboard	52,768	59,186	60,099	53,318	83,705	131,777
Cellular wood panels	58	92	66	34	92	68

[2] Note typographical error on page 2 of H.R. 2324, line 5 which should read "(3) in paragraph (e)" instead of "(3) in paragraph (3).

U.S. IMPORTS OF SOLID WOOD PRODUCTS FOR 1979–84 PREPARED BY FOREST PRODUCTS DIVISION, USDA, FOREIGN AGRICULTURAL SERVICE—Continued

[Customs value basis, in thousands of dollars]

Country/Commodity	1979	1980	1981	1982	1983	1984
Gypsum and plaster board	25,379	10,958	8,419	13,556	26,279	86,962
Other Panel products	4,967	5,479	9,123	14,461	18,405	20,510
Other wood products	531,941	524,042	518,614	471,839	606,477	764,289
Total	4,265,510	3,256,250	3,280,063	2,889,084	4,242,377	4,665,419
North America [1]:						
Softwood logs	24,416	17,325	16,975	22,920	24,101	14,602
Hardwood logs	1,488	1,458	1,835	2,777	2,557	3,498
Poles, piles and posts	9,776	10,735	12,637	10,315	13,806	14,440
Wood chips	30,440	45,887	51,395	51,374	48,979	45,352
Softwood lumber	2,439,498	1,753,493	1,685,927	1,559,129	2,451,903	2,539,534
Hardwood lumber	35,086	28,758	27,501	23,511	24,042	29,113
Softwood flooring	26	.....	28	3	5	36
Hardwood flooring	5,499	3,759	4,039	3,463	5,523	6,844
Siding	81,487	52,814	58,643	50,686	102,935	114,858
Molding	8,613	6,084	7,911	6,478	9,486	10,096
Treated and edge-glued lumber and siding	5,272	3,879	4,078	3,444	2,751	7,229
Railroad ties	3,422	4,671	3,837	2,579	1,870	4,959
Softwood veneer	17,748	13,886	9,278	11,524	13,233	13,644
Hardwood veneer	56,570	42,656	48,818	47,017	65,254	72,181
Softwood plywood	397	1,586	1,244	1,840	2,622	3,053
Hardwood plywood	19,614	18,875	19,127	18,306	19,240	27,030
Hardboard	5,371	8,181	6,028	4,506	7,313	7,694
Particleboard	51,979	58,589	59,388	51,456	75,422	119,593
Cellular wood panels	1	51	38	17	8	6
Gypsum and plaster board	24,076	10,956	8,419	13,541	24,860	80,670
Other panel products	4,435	5,214	8,926	13,339	15,104	14,823
Other wood products	235,010	222,264	217,023	181,996	250,893	310,350
Total	3,060,226	2,311,121	2,253,093	2,080,221	3,161,905	3,439,605

[1] North America is Canada only.

ITT RAYONIER, INC.,
PENINSULA PLYWOOD DIVISION,
Port Angeles, WA, June 24, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

GENTLEMEN: Peninsula Plywood, a division of ITT Rayonier, strongly supports H.R. 2344.

Plywood Siding should be classified as plywood and not as building board. Softwood plywood siding has multiple uses and is not limited to application as boards with shiplap edge treatment. Therefore, we encourage the change in duty classification that should be made in Bill H.R. 2324.

Sincerely yours,

KARL J. ALTENEDER,
Sales Manager, Peninsula Plywood.

H.R. 2327

To apply to imported machinery for making pulp, paper, or paperboard the same duty as the country of origin of that machinery applies to machinery of that kind that is a product of the United States and is exported to that country

U.S. International Trade Commission

Section-by-section analysis

H.R. 2327, if enacted, would amend schedule 6, part 4, subpart D of the Tariff Schedules of the United States (TSUS) to provide, in a new headnote 2, that the column 1 rate of duty under TSUS items 668.00 and 668.06 with respect to the article of any country shall be that rate of duty, as determined by the Commissioner of Customs, that would be imposed by that country on the customs entry into that country, at that time, of a like article that is a product of the United States.

The effective date of the amendment would be the 15th day after the date of enactment of the bill.

Background

Description and uses.—Machines for producing cellulosic pulp include all equipment required for processing wood or other raw fiber into pulp for delivery to stock preparation. Such machines include, among others, beaters, pulpers, grinders, refiners, deckers, and pulp-drying equipment. All of these machines are designed to further break up the wood into a water solution suitable for introduction into the paper or paperboard machine.

Pulp-producing equipment differs significantly depending upon the pulping processes used to convert wood or other cellulosic materials to papermaking fibers. Mechanical pulping utilizes high-speed grinders, which convert logs, and refiners, which convert wood chips, to pulp. The mechanical method yields a high percentage of pulp without removing the lignin from the wood. Newsprint, ground-wood papers, building boards, and some specialty papers and paperboards are made from this type of pulp. Semichemical pulping is a two-stage process that requires a mild chemical treatment of the chips followed by mechanical treatment to separate the individual fibers. Semichemical pulping is adaptable to low-cost, abundant hardwoods and produces high-yield pulps for corrugated board and other products requiring strength. In chemical processing the wood is cut into small pieces by a chipper, then cooked in a digester, with chemicals under pressure. This process removes the lignin and produces a stronger pulp. However, pulp yield considerably lower than with the mechanical process. In all processes, the pulp proceeds through several stages of washing, screening, and, sometimes, bleaching. After further refining, the fibers are combined with pigments, dyes, sizings and resins, depending on the type of paper and paperboard to be produced. At this stage the pulp, consisting of more than 1 percent fiber and other solids, is ready to be formed on the paper machine.

Machines for producing paper and paperboard are of two principal types, fourdrinier paper machines and cylinder paper machines. A third type of machine produces cellulosic building boards such as insulating board and hardboard. Paper and paperboard machinery, which generally is custom built to meet individual specifications, may require several years to build. It is not unusual for a single machine to cost from $20 million to $30 million.

Fourdrinier machines have endless woven belts for shaping the slurry into a thin, continuous sheet. Cylinder machines pick up the stock on a wire covered cylinder mold. On both machines water drains through wires and is further removed from the paper web by passing the web through press rollers and over drying cylinders before it reaches the machine calender and winding reels. The paper or paperboard is then removed and formed into smaller rolls or cut into sheets for shipment.

Purpose.—According to the sponsor of this legislation,[1] the disparity in duties applied to the subject merchandise by the United States and other countries is large

[1] Telephone conversation between Commission staff member and member of sponsor's staff.

enough to cause the U.S. industry to suffer a competitive disadvantage. The domestic industry is particularly concerned about imports from Canada.[2]

Prior investigations

On the basis of information obtained in investigation No. AA1921-128, the Commission unanimously determined [3], on October 24, 1973, that an industry in the United States was not being or was not likely to be injured, and was not prevented from being established, by reason of the importation of papermaking machinery and parts thereof from Sweden. The Treasury Department had determined, on July 24, 1973, that the machines were being, or were likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

During June-August 1974, the U.S. Tariff Commission conducted an investigation under section 301(c)(2) of the Trade Expansion Act of 1962 (19 U.S.C. 1901) to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with paper machinery and parts (of the types provided for in items 668.00 and 668.06 of the TSUS) were being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of Black Clawson Co. of Watertown, NY. The Commission decided in the negative.

On April 8, 1980, the Commission instituted investigation No. 337-TA-82 to determine whether there was a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) consisting of unfair methods of competition and unfair acts in the importation into the United States or in the sale of certain headboxes and papermaking machine forming sections for the continuous production of paper, and components. On March 23, 1981, the Commission determined that there was a violation of the statute in the importation and sale of multi-ply headboxes and papermaking machine forming sections, and components thereof, which infringed, contributed to the infringement of, or induced the infringement of certain U.S. patent claims. The Commission also determined that an exclusion order was the appropriate remedy.

On June 23, 1981, the Commission instituted investigation No. 337-TA-82A on its own initiative. This investigation was instituted following the President's disapproval of the Commission action and order previously issued on April 8, 1981, at the conclusion of investigation No. 337-TA-82, *Certain Headboxes and Papermaking Machine Forming Sections for the Continuous Production of Paper, and Components Thereof.* On October 19, 1981, the Commission again determined that there was a violation of section 337 in the importation and sale of multi-ply headboxes and papermaking machine forming sections, and components thereof and spare parts therefor, which infringed, contributed to the infringement of, or induced the infringement of certain U.S. patent claims. The Commission also determined that a limited exclusion order was the appropriate remedy, that statutory public-interest considerations did not preclude relief in the investigation, and that the articles ordered to be excluded should be permitted to enter under a 100 percent ad valorem bond until the Commission's determination became final or was disapproved by the President. The determination was approved by the President on Jan. 18, 1982, and the exclusion order became final on that date. The determination was appealed, and on May 13, 1983, the Court of Appeals for the Federal Circuit affirmed in part, reversed in part, vacated in part, and remanded the case to the Commission. Because the court reversed findings of the Commission that some of the patent claims were valid, the Commission, on July 6, 1983, revoked its determination of violation and its limited exclusion order and requested written comments. On August 8, 1984, the Commission terminated the investigation and issued a consent order.

On May 11, 1983, the Commission instituted, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337), investigation No. 337-TA-147, *Certain Papermaking Machine Forming Sections for the Continuous Production of Paper.* The Commission made a negative determination on March 19, 1984. This determination was reversed on appeal on January 4, 1985 and remanded to the Commission. The investigation is presently pending before the Commission.

Comparison with present law

Tariff treatment under TSUS.—Machines for making cellulosic pulp, paper, or paperboard are classified under TSUS item 668.00. Parts of such machines are classi-

---

[2] The duty rate applied to pulp and paper machinery by the United States is 0.9 percent ad valorem. Canada applied a duty rate of 11.4 percent ad valorem as of January 1, 1984.

[3] Commissioners Leonard and Young did not participate in the decision.

fied under item 668.06. The column 1 [4] rate of duty for both items is 0.9 percent ad valorem and the column 2 rate [5] is 35 percent. The rate for least developed developing countries (LDDs)[6] is free. Imports under items 668.00 and 778.06 may be eligible for duty-free treatment under the Generalized System of Preferences (GSP).[7] Imports from beneficiary Caribbean countries may qualify for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).[8]

Staged duty reductions were negotiated for items 668.00 and 668.06 during the Tokyo round of Multilateral Trade Negotiations (MTN) as follows:

Rate effective on or after January 1—	
Year:	
Pre-MTN [1]	3.5
1980	3.1
1981	2.6
1982	2.2
1983	1.8
1984	1.3
1985	0.9
1986	0.4
1987	Free

[1] Rate effective prior to January 1, 1980.

The tabulation on the following page shows the duty rates applicable to machines for making cellulosic pulp, paper, or paperboard in the four countries that are the principal suppliers of these products to the United States.

Country and description of commodity and foreign tariff item No.	Present rate of duty	MTN negotiated rate of duty
Canada:		
Certain machines and accessories, attachments, control equipment and tools for use therewith, parts of the foregoing, including pulp and papermaking machines and certain bookbinding machinery (42700–1)	[1] 11.4%	9.2%
Centrifugally cast paper machine roll shells, paper and paperboard machines, paper testing machines and paper laminating machines (42700–6)	Free	Free
Certain parts of pulp, paper, and paperboard machinery (44603–1)	[1] 12.9%	10.2%
W. Germany:		
Machinery for making or finishing cellulosic pulp, paper, or paperboard (84.31):		
A. For making paper or paperboard	4.1%	3.8%
B. Other	4.5%	4.1%

[4] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing counties if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[5] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[6] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no ratre of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[7] The GSP affords nonreciprocal tariff preferences to developing / . countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[8] The CBERA affords nonreciprocal tariff perferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countriee.

Country and description of commodity and foreign tariff item No.	Present rate of duty	MTN negotiated rate of duty
Sweden:		
Machinery for making or finishing cellulosic pulp, paper, or paperboard; parts (84.31)	4.2%	3.8%
Paper or paperboard cutting machines of all kinds; other machinery for making up paper pulp, paper, or paperboard; parts (84.33)	3.4%	2.5%
Finland:		
(Same as Sweden, above—84.31)	5.4%	5.1%
(Same as Sweden, above—84.33)	5.4%	5.1%

[1] This rate was applicable as of January 1, 1984.

Tariff treatment under the proposed Harmonized System (HS).[9]—The proposed tariff treatment for pulp and paper making machinery under the HS, according to the September 1984 Trade Policy Staff Committee draft of the conversion of the TSUS into the HS, is as shown in table 1.

Structure of the domestic industry

In recent years the leading States for shipments of machinery for pulp, paper, or paperboard including Wisconsin, Massachusetts, New York, Pennsylvania, and Ohio. Employment in these States accounts for over 10,000 of the industry's 17,000 employes. Companies in this industry tend to specialize in the production of pulp, paper, or paperboard machinery. Such products account for over 85 percent of their production. The following five companies account for over 50 percent of industry shipments: the Beloit Corporation, headquartered in Beloit, WI, with plants at 15 locations throughout the country; Black Clawson, Middletown, OH and Fulton and Watertown, NY; Voith, Appleton, WI; Sprout-Waldron, Division of Koppers, Muncey, PA; and Sandy Hill Corp., Hudson Falls, NY.

During the years 1980–84, estimated shipments of machinery for pulp, paper, or paperboard remained at approximately the same level (in current dollars), rising irregularly from an estimated $706.2 million in 1980 to an estimated $710.2 million in 1984 (table 2). In constant dollars, such shipments declined annually throughout the period. This was due to sluggish demand in the paper industry as a result of decisions to rebuild and augment old equipment, rather than to purchase new machinery.

U.S. imports

U.S. imports of machinery for making pulp, paper, or paperboard rose from $118.4 million in 1980 to $128.3 million in 1981, then declined to $78.1 million in 1982 and $63.9 million in 1983, before increasing to $77.6 million in 1984 (table 2). The sharp drop in imports after 1981 reflected the depressed U.S. market for these machines. Leading foreign suppliers included West Germany, Sweden, Canada, and Finland.

In 1984, imports from GSP-eligible countries amounted to $5.7 million or 7.4 percent of total imports. Principal supplying GSP-eligible countries were Portugal and Brazil, with imports of $2.5 million each.

In 1984, there were over 150 importers of machinery for making pulp, paper, or paperboard. During the period from January 1983 to December 1984, the principal consignees for this machinery were the U.S. sales offices of foreign manufacturers and U.S. paper manufacturing companies. The companies included Ahlstrom Machinery, Inc., Glens Falls, MY; Beloit Corp., Beloit, WI; J.M. Voith GMBH, Hendenheim, West Germany; TVW Paper Machine Co., Atlanta, GA.; Kamyr-Neles, Inc., Glens Falls, NY; Sulzer Brothers, New York, NY; KMW Corp., Charlotte, NC; Boise Cascade Corp., Portland, OR; Jagenberg USA, Inc., Enfield, CT; Inventing of America Ltd., King of Prussia, PA.; and Voith Inc., Appleton, WI.

U.S. exports

U.S. exports of machinery for making pulp, paper, or paperboard totaled $153.5 million in 1980, $146.0 million in 1981, and $156.2 million in 1982 (table 2). Exports declined sharply in 1983 to $80.3 million and equaled $87.5 million in 1984. In 1984,

[9] The Harmonized System is intended to serve as the single modern product nomenclature for use in classifying proudcts for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

major markets included Canada, Mexico, the United Kingdom, Brazil, Finland, Ireland, Japan, Australia, and the Republic of South Africa.

Apparent U.S. consumption

During 1980–84, apparent U.S. consumption of machinary for making pulp, paper, or paperboard varied irregularly, rising from $669.1 million in 1980 to $700.3 million in 1984 (table 2).

Effect on revenue

Enactment of this legislation would probably significantly increase annual customs revenues collected on imports of machinery for making pulp, paper, or paperboard because the duty rates on these products tend to be higher in other countries than the 0.9 percent ad valorem applied in the United States. However, it is not possible to estimate the amount without knowing the country mix and the share of the U.S. export market accounted for by each country.

Technical comments

Proposed headnote 2 would most likely pose administrative problems for Customs. First, it is not clear how the country of origin of the product is to be determined. In the absence of specific guidelines, the rules for determining origin for purposes of applying MFN duty rates under column 1 would apply. If this legislation were enacted, the question of the particular MFN country from which the product came would be crucial in determining the duty rate. Also, Customs would be required to determine the like product. Finally, the various customs ports of entry would be required to keep track of the duty rates applied to this merchandise at any given time by all of the countries from which such merchandise would be exported to the United States.

GATT considerations

The duty rate for pulp and paper machines and parts is bound under Article II of the General Agreement on Tariffs and Trade (GATT). Therefore, to the extent that this legislation would increase the duties above the agreed level, the United States could be subject to claims by affected contracting parties for compensatory concessions, or to retaliatory withdrawal of benefits previously granted to the United States.

Table 1.

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

84-18

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
8437		Machines for cleaning, sorting or grading seed, grain or dried leguminous vegetables, and parts thereof; machinery used in the milling industry or for the working of cereals or dried leguminous vegetables, other than farm type machinery; parts thereof:				
8437.10.00	00	Machines for cleaning, sorting or grading seed, grain or dried leguminous vegetables	No	3.5%		35%
8437.80.00		Other machinery		3.5%		35%
	10	Flour mill and grain mill machines	No			
	90	Other	No			
8437.90.00		Parts		3.5%		35%
	10	Of flour mill or grain mill machines	X			
	90	Other	X			
8438		Machinery, not specified or included elsewhere in this chapter, for the industrial preparation or manufacture of food or drink, other than machinery for the extraction or preparation of animal or fixed vegetable fats or oils; parts thereof:				
8438.10.00		Bakery machinery and machinery for the manufacture of macaroni, spaghetti or similar products		3.5%		35%
	10	Bakery machinery	No			
	90	Other	No			
8438.20.00	00	Machinery for the manufacture of confectionery, cocoa or chocolate	No	3.5%		35%
8438.30.00	00	Machinery for sugar manufacture	No	Free		Free
8438.40.00	00	Brewery machinery	No	3.5%		35%
8438.50.00		Machinery for the preparation of meat or poultry		3.5%		35%
	10	Meat- and poultry-packing plant machinery	No			
	90	Other	No			
8438.60.00	00	Machinery for the preparation of fruits, nuts or vegetables	No	3.5%		35%
8438.80.00	00	Other machinery	No	4.2%		40% [1]
8438.90		Parts:				Free
8438.90.10	00	Of machinery for sugar manufacture	X	Free		35%
8438.90.90	00	Other	X	3.5%		35%
8439		Machinery for making pulp of fibrous cellulosic material or for making or finishing paper or paperboard (other than the machinery of heading 8419); parts thereof:				
8439.10.00	00	Machinery for making pulp of fibrous cellulosic material	No	Free		35%
8439.20.00	00	Machinery for making paper or paperboard	No	Free		35%
8439.30.00	00	Machinery for finishing paper or paperboard	No	2%		35%
8439.91		Parts: Of machinery for making pulp of fibrous cellulosic materials:				
8439.91.10	00	Bed plates, roll bars and other stock-treating parts	X	4.7%		20%
8439.91.90	00	Other	X	Free		35%
8439.99		Other:				
8439.99.10	00	Of machinery for making paper or paperboard	X	Free		35%
8439.99.50	00	Of machinery for finishing paper or paperboard	X	3%		35%
8440		Bookbinding machinery, including book-sewing machines, and parts thereof:				
8440.10.00	00	Machinery	No	3.7%		25%
8440.90.00	00	Parts	X	3.7%		25%

TABLE 2.—MACHINERY FOR MAKING PULP, PAPER, OR PAPERBOARD:[1] U.S. PRODUCERS' SHIPMENTS, EXPORTS OF DOMESTIC MERCHANDISE, IMPORTS FOR CONSUMPTION, AND APPARENT CONSUMPTION, 1980–84

[In thousands of dollars]

	Producers' shipments [2]	Exports	Imports	Apparent consumption [2]	Ratio (percent) of imports to consumption [2]
1980	706,000	153,548	118,442	669,094	17.7
1981	706,020	146,035	128,260	668,245	18.6
1982	709,200	156,153	78,136	631,183	12.4
1983	703,200	80,311	63,860	686,749	9.3
1984	710,200	87,498	77,591	700,293	11.1

[1] Includes data under TSUS items 668.00 and 668.06.
[2] Estimated by the staff of the U.S. International Trade Commission.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 2327, a bill "To apply to imported machinery for making pulp, paper, or paperboard the same duty as the country of origin of that machinery applies to machinery of that kind that is a product of the United States and is exported to that country."

The Department of Commerce opposes enactment of H.R. 2327.

Enactment of H.R. 2327 would raise U.S. tariffs on machinery for making cellulosic pulp, paper, or paperboard and parts thereof to the same level as the comparable tariff each U.S. trading partner assesses on U.S.-origin papermaking machinery. This bill would affect only column 1 (MFN) rates of duty. There would be no change in LDDC or column 2 rates. The countries principally affected by this legislation would be Canada, Finland, Sweden, and the European Economic Community (EEC).

The products currently enter the United States under Tariff Schedules of the United States (TSUS) items 668.00 and 668.06, both of which carry a duty of 0.9 percent ad valorem. As a result of concessions made in the Tokyo Round of trade negotiations, the MFN duty will be reduced in stages to free on January 1, 1987. These products are eligible for duty-free treatment under the U.S. Generalized System of Preferences. In addition, the duty on Yankee dryer cylinders, which would be affected by this legislation, was permanently eliminated as a result of legislation previously passed by Congress. Yankee dryer cylinders are not available in the United States.

Enactment of H.R. 2327 would be contrary to our international obligations under the General Agreement on Tariffs and Trade (GATT). It would contravene Article I which requires that, except for certain circumstances such as free trade areas, each country will apply the same tariff to all countries. This is known as the most-favored-nation principle.

In addition, the duties on TSUS items 668.00 and 668.06 were subject to concessions made by the United States under the GATT and are bound against increase. Increases in these rates may be made only in accordance with specific procedures prescribed by the GATT. H.R. 2327 would not comply with such procedures. Under the terms of the GATT, if the United States takes an action which results in an increase in tariffs on a bound item, countries with substantial trade interests in the item may claim offsetting compensation from the United States for the trade effects of the action or subject the United States to possible retaliatory trade restrictions. We believe it is inappropriate to jeopardize our trading interests in this instance.

We understand that the industry is concerned about the United States having lower duties on papermaking machinery than some of our trading partners. We think that the best way to address tariff disparities is in the context of multilateral or bilateral trade negotiations.

There would be no less of revenue as a result of enactment of H.R. 2327. There would be no effect on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

STATEMENT OF THOMAS GILES, VICE PRESIDENT, ROSS PULP & PAPER DIVISION, HERCULES, INC.

SUMMARY

Hercules, Inc. strongly opposes H.R. 2327, a bill that would apply to imported pulp and paper making machinery the same duty rate as the country of origin of that machinery applies to similar products from the United States.

H.R. 2327 would substantially increase the duty on Hercules' machinery from its Canadian Ross Pulp and Paper facility coming into the U.S., thereby putting Hercules at a competitive disadvantage in the pulp and paper machinery market.

The bill would adversely affect workers who install the machinery in the U.S. and jobs at Hercules' paper chemicals facilities. Moreover, the bill seeks to protect some American jobs at the expense of others.

If H.R. 2327 were to be enacted, the U.S. would be in violation of its GATT obligations. Retaliation by the principal supplying countries could result in lost U.S. exports of other products.

STATEMENT

I am submitting this statement to the Subcommittee on Trade of the House Ways and Means Committee in response to its request for comments on a number of miscellaneous tariff bills, including H.R. 2327.

Hercules, Inc., of Wilmington, Delaware, strongly opposes H.R. 2327, a bill sponsored by Representative Silvio Conte. The bill would apply to imported machinery for making pulp and paper or paperboard, the same duty rate as the country of origin of that machinery applies to similar products exported from the United States. The bill covers pulp, paper or paperboard machinery under Tariff Schedule of the United States (TSUS) Item Numbers 668.00 and 668.06.

Hercules, Inc., a major American chemical manufacturer, last year acquired the Ross Pulp and Paper Division of the Midland-Ross Corporation with operations in Montreal, Canada; Atlanta, Georgia; and Appleton, Wisconsin. The machinery produced by Ross Pulp and Paper is used by Hercules as part of a package of products to support the pulp and paper industry in the U.S. Operations of Ross Pulp and Paper and its subsidiary company will represent $35 million this year in U.S. machinery sales alone. The bill would effectively increase the duty on this equipment from 0.9 percent to approximately 9.2 percent, or almost a thousand percent increase.

H.R. 2327 would substantially increase the duty on Hercules' machinery from its Ross Pulp and Paper facility coming into the United States thereby putting Hercules at a competitive disadvantage in the pulp and paper machinery market.

Also H.R. 2327 would adversely affect American jobs. When Hercules sells Ross Pulp and Paper equipment the installation of that equipment at the paper mill site is included with the purchase. For such installations Hercules employs in excess of a thousand American workers.

The ability of Hercules to provide this machinery as part of a full range of products to the pulp and paper industry enhances its competitive stance as a chemical supplier for pulp and paper mills. This is especially true for the Hercules paper chemicals plant and sales office in Chicopee, Massachusetts which employ 50 workers. Other plants and sales offices affected by Hercules sales to the pulp and paper industry include operations in Brunswick, Savannah and Atlanta, Georgia; Harrisburg, Mississippi; Green Bay and Milwaukee, Wisconsin; Mobile, Alabama; Franklin, Virginia; Wilmington, Delware; Shreveport, Louisiana; Kalamazoo, Michigan; Waterville, Maine; and Portland Oregon.

There is no doubt that some American manufacturers of pulp and paper machinery have been affected by the strong dollar and commensurately cheaper imports from Brazil, Sweden and Finland. But it is of dubious value to try to protect these firms and their workers at the expense of other American firms and their workers. Furthermore, this bill would jeopardize what has been a close, special trading relationship between Canada and the United States, and their respective pulp and paper industries.

Additionally, the framework of the proposed legislation is sectoral reciprocity. There are two fundamental reasons why this approach should be rejected by Congress. First, TSUS Item Number 668.00 and 668.06 are "GATT Bound" items. This means that if H.R. 2327 were to pass, the U.S. would be in violation of its GATT obligations since the duty rate on the imported machinery would be unilaterally increased. The U.S. would, therefore, have to "compensate" the major supplying countries for such action by reducing duties applicable to other imports from those coun-

tries. Moreover, the President does not have authority to enter into trade agreements providing for modifications in U.S. rates of duty. As a result, the principal supplying countries would be entitled to retaliation by increasing duties applicable to U.S. exports to those countries, resulting in a loss of U.S. exports and American jobs.

Second, the principle behind H.R. 2327 introduces a distorted use of reciprocity that, if embraced by Congress, would be a precedent that could undermine an already vulnerable multilateral trading system, trigger retaliation abroad, and erode this country's role as the world leader in liberalizing trade.

In summary, Hercules is very concerned that H.R. 2327 will jeopardize the economic health of its Ross Pulp and Paper Division and the competitiveness of its related pulp and paper chemical operations. The bill unwisely seeks protection for some American jobs at the expense of other American jobs, and will pose major problems for the U.S. in meeting its obligations under the GATT.

For these reasons, we respectfully urge the House Ways and Means Committee not to include H.R. 2327 as part of any miscellaneous tariff bill reported to the full House.

FOLEY & LARDNER,
Washington, DC., June 27, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN GIBBONS: We are submitting comments in opposition to H.R. 2327 on behalf of J.M. Voith GmbH of Heidenheim, West Germany, Voith, Inc. and Voith-Morden, Inc. of Appleton, Wisconsin, all manufacturers of papermaking machines.

H.R. 2327 would have the tariff on papermaking machinery imported into the United States equal the tariff imposed by the country of origin on similar machinery entering that country from the United States. This bill, if enacted, would not only offend the General Agreement on Tariffs and Trade and cause widespread economic harm but would also impair existing contracts.

The amendment to the duty rate proposed in H.R. 2327 would violate the letter of GATT which could result in the initiation of dispute settlement procedures and the consequent imposition of sanctions and other forms of retaliation by the affected nations. Further, enactment of H.R. 2327 would undermine the GATT system of offsetting trade concessions. Within the framework of the multilateral GATT, individual countries carry out bilateral negotiations whereby offsetting but not necessarily symmetrical tariff reductions (and other concessions) are agreed upon. In other words, there already is reciprocity in the tariff system under GATT, but that does not mean that it must be expressed by equivalent tariffs for similar merchandise. Rather, one country may wish a higher tariff on merchandise important to it in exchange for another country's higher tariff on different goods which it wants to protect. The tariff equivalence approach taken by H.R. 2327, however, disregards the value of such considerations which have been determined in bilateral negotiations.

Enactment of H.R. 2327 would have an immediate and substantial adverse impact on the two U.S. subsidiaries of J.M. Voith GmbH. Voith, Inc. and Voith-Morden, Inc. are both manufacturing companies, providing component parts of papermaking machines whose major structural units are manufactured in West Germany. Both companies employ substantial numbers of employees in Appelton, Wisconsin and are significant factors in the local economy. The enactment of H.R. 2327 would endanger their viability.

Enactment of H.R. 2327 would also impair existing contractual relations which were entered into on the basis of the present effective and future scheduled rates of duty. The lead time between the date of entering into a contract for and the actual manufacture of equipment commonly is one to three years. Therefore, H.R. 2327 could cause a significant price increase in such cases. Since paper manufacture is a price-sensitive industry, any increase in the price of equipment would have widespread economic repercussions.

In conclusion, H.R. 2327 raises significant problems that ought to be more fully explored through hearings before any judgment is made on the bill. We urge you not to go forward on this matter without further proceedings and respectfully request that we be permitted to participate in them on behalf of the Voith companies.

Sincerely,

JAMES N. BIERMAN, *Counsel.*

S.W. HOOPER CORP.
Atlanta, GA, June 25, 1985.

Hon. SAM GIBBONS,
Chairman, Foreign Trade Subcommittee, House Ways and Means Committee, Washington, DC.

DEAR SIR: Our firm is a manufacturer of process machinery for the pulp and paper and the power generation industries. In common with most other equipment manufacturers we are suffering from slack market demand, and increasing price competition in both domestic and export markets.

As competitors based overseas decrease their prices in the United States, our prices in their countries are increasing. It is understandable that this frustrating situation gives rise to calls for increased protection of American manufacturers. House bill H.R. 2327, now under consideration by your subcommittee, is such a measure.

To be constructive this bill should, in my view, meet two tests—will it decrease imports and will it increase exports. Clearly, the answer to the latter question is no. H.R. 2327 will do nothing to increase export sales. It may even provoke retaliation which will limit access to export markets.

Will this bill reduce imports? The major sources of imported pulp and paper machinery in 1984 were West Germany (34% of imports) and Switzerland (13%). These two countries accounted for almost half of last year's imports. The proposed increase in duty is equal to only a fraction of the decrease in the value of the German and Swiss currencies compared to the dollar in the last two years. Exporters in these countries can readily absorb the increased cost.

Canada (11%), Japan (9%), and Sweden (7%) account for another 27% of imports. Sweden has devalued its currency substantially, giving it a major cost advantage. Japan enjoys major cost advantages. Neither will be affected by an increase in duty.

Canada is a special case. The Canadian dollar has declined, and Canada has significant tariffs on imports. Yet we continue to enjoy a major positive balance of trade with Canada in pulp and paper machinery, exports being more than double imports.

In all of these cases there is one common factor—the exchange rate. As long as the dollar is overvalued compared to other currencies imports will grow, exports will be restricted, and American companies will be forced to manufacture outside the U.S. Increased tariffs on imports may shift the sources to lower cost countries such as Brazil and Korea, but they will not make American equipment less expensive.

American pulp and paper producers face the same problems as machinery builders—high domestic costs, competition from imports, and loss of export sales. The reason is the same—the strong dollar. If anything, H.R. 2327 will increase their costs.

We need a strong domestic market, and competitive prices in the export market. H.R. 2327 does not address either issue, and should not be adopted.

Rather, strong measures are required to reduce interest rates, and to at least restrain the growth of the federal deficit, which must surely lead to a more realistic valuation of the dollar. This single factor, more than any other, will positively affect all American primary and secondary industry.

Yours truly,

A.W. HOOPER, *President.*

STATEMENT OF MARTIN O. SALTARELLI, CHIEF OPERATING OFFICER, SINCLAIR INTERNATIONAL

The following testimony is submitted in support of H.R. 2327.

Sinclair International is a 60 year old company, with headquarters in Holyoke, Massachusetts, engaged in the business of supplying machinery and services for the pulp and papermaking industry in the United States and foreign markets.

Peak employment was 120 but has been reduced to 76 in spite of development and acquisition of new product lines. In addition, significant research and development expenditures have been made to maintain technical leadership in the traditional product lines.

Two of the main reasons for loss of market, and concurrently loss of jobs, are:

(a) Supply into the United States of similar equipment by foreign suppliers who have the advantage of weak local currency and low import duty to the United States.

(b) Difficulty of supply of Sinclair products to foreign markets due to high import duties.

Sinclair products are recognized as being technically superior and many customers will pay a premium. However, the current differential between foreign supply landed selling prices and Sinclair costs is about 30% for similar machinery. Equalization of tariffs would reduce this differential significantly and would help Sinclair regain market share. This would also result in restoration of jobs and improvement in trade balance.

ARENT, FOX, KINTNER, PLOTKIN & KAHN,
Washington DC, June 28, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: Enclosed are six copies each of a written statement and summary regarding H.R. 2327, submitted on behalf of our client, TVW Paper Machines, Inc., TVW Paper Machines, Inc., is owned by three Finnish paper-making machinery companies, Oy Tampella Ab, Oy Wartsila Ab, and Valment Oy. Our law firm is registered with the Department of Justice under the Foreign Agents Registration Act to represent TVW Paper Machines, Inc., with respect to this matter.

Sincerely,

JEROME P AKMAN,
BURTON V. WIDES,
MARGARET ELLEN ROGGENSACK.

Enclosures.

STATEMENT ON BEHALF OF TVW PAPER MACHINES, INC.

INTRODUCTION

These comments are submitted on behalf of TVW Paper Machines, Inc. ("TVW") a United States corporation located in Atlanta, Georgia and owned by Finnish companies, in opposition to H.R. 2327. We urge the Committee not to report this bill for several reasons.

First, the bill if enacted, would increase duties on imports of paper-making machinery.[1]

Second, it would injure U.S. companies engaged in the sale of paper-making machinery, such as TVW, and their American workers.

Third, this bill would increase the price of paper. That increase would have an inflationary impact on the domestic economy and would also hurt the United States paper industry's ability to compete with foreign paper products in both domestic and foreign markets.

Fourth, the bill would violate the United States' commitments under numerous treaties of Friendship, Commerce and Navigation and its commitments under the GATT. This would expose the United States to sanctions and could lead to retaliation against U.S. exports to a number of its trading partners such as Canada, West Germany, Brazil, Sweden, Italy and Finland.

Fifth, the bill would hinder efforts to reach new trade agreements with these nations.

In addition to these specific harmful results, perhaps the most fundamental flaw of this bill is that its basic approach of requiring identical concessions by all partners would begin to unravel the entire delicate structure of bilateral and multilateral trade concessoins that has been painstakingly negotiated by the United States and its trading partners over many years.

BACKGROUND

TVW Paper Machines, Inc. is a domestic company engaged in the importation and marketing in the United States of paper-making machinery produced by Oy Tampella Ab, Valmet Oy, and Oy Wartsila Ab and their affiliates.[2]

---

[1] As used in these comments, "paper-making machinery" refers to machines for making pulp, paper or paperboard.

[2] Oy Tampella Ab, Valmet Oy, and Oy Wartsila Ab are Finnish corporations. Among their affiliates is a paper-making machine manufactured facility in Canada, Valmet-Dominion, Inc.,

Continued

TVW imports, sells, installs and service these machines. TVW also makes substantial purchases of original and repair parts for its machinery from United States companies. Purchasers of TVW paper-making machines represent a broad spectrum of the United States paper and paper products industry.

Paper-making machines are specifically provided for in TSUS [3] Items No. 668.00 (machines) and 688.06 (parts), both at a rate of 0.9% ad valorem. This rate is a result of duty reductions negotiated during the 1967 Kennedy Round and the 1979 Tokyo Round of Multilateral Trade Negotiations, and embodied in the 1967 and 1979 Geneva Protocols to the GATT.

PROVISIONS OF H.R. 2327

H.R. 2327 would prescribe a new method of calculating the duty on paper-making machinery. The duty rate would vary on a country-by-country basis. The rate for each country of origin would correspond to the rate which that country imposes on imports of paper-making machinery from the United States. This formula would constitute a radical departure from the negotiated duty rates on paper-making machinery imported into the United States under TSUS Items No. 668.00 and 668.06. In a number of instances, this formula would result in a significant increase in the duty rate on such machinery.

DISCUSSION

A. Enactment of H.R. 2327 would harm the domestic economy

Enactment of H.R. 2327 would have an adverse impact upon employees in the United States. Most directly, it would jeopardize the jobs of those individuals employed by TVW and similar companies in the sale, marketing and servicing of paper-making machines in the United States. Indirectly, the bill would threaten the employees of those American suppliers who provide spare and extra parts to TVW for use in their paper-making machines.

Increases in the duty rate on paper-making machines would also have an inflationary effect on the U.S. economy. They would increase the cost of a significant factor of paper production. Increased production cost would, in turn, increase the price of paper and paper products, basic commodities in the economy. Increased costs also would make paper manufactured in the United States less competitive with foreign paper, in both the domestic and international markets.

B. Enactment of H.R. 2327 would violate innumerable Friendship, Commerce, and Navigation Treaties with friends and allies around the globe

The United States and other nations advance their international commercial interests through bilateral "Friendship, Navigation and Commerce" (FCN) treaties or "Reciprocal Trade" (RT) treaties. The United States has signed such treaties, promoting harmonious political and economic relations, with over 40 other nations. These treaties mutually confer "Most-Favored-Nation" ("MFN") status on both signatories. Thus, the United States promises to give to the other country the same commercial advantages offered to the United States' "Most Favored Nation," and the other signatory to the treaty undertakes the same obligation. For example, should the United States, in bilateral negotiations with England, make a concession in its duty rates on English pottery, then all other nations which have MFN status under treaties with the United States are entitled to enjoy the benefit of that concession and to have their pottery exports to the United States be dutiable at the same lowered rate.

Almost all of the nations which export paper-making machinery to the United States have MFN status under such treaties.[4] H.R. 2327 would place the United States in violation of its many Friendship, Commerce and Navigation treaties by creating diverse, country-specific duty rates on paper-making machinery, in contravention of the MFN status which those treaties accord.

---

which is jointly owned by Valmet Oy and a Canadian affilate of the General Electric corporation. Valmet-Dominion produces in Canada some of the paper-making machinery which TVW imports for sale in the United States.

[3] Tariff Schedules of the United States.

[4] The following countries are representative of the nations which have FCN treaties with most-favored-nation clauses with the United States and which export paper-making machine products to America.

C. Enactment of H.R. 2327 would violate the GATT and expose the United States to retaliatory action

1. *GATT Violation.*—The duty rate revision required by H.R. 2327 would also be an outright violation of U.S. obligations under GATT. In the 1967 Geneva Protocol to the Kennedy Round of Multilateral Trade Negotiations, the United States agreed to reduce the tariff on paper-making machinery and parts dutiable under TSUS Items No. 668.00 and 668.06, from 7% to 3.5%. The United States agreed to further duty rate concessions on paper-making machinery in the 1979 Geneva Protocol to the GATT, through staged rate reductions for paper-making machines and parts entered under TSUS Items No. 668.00 and 668.06. The current rate of duty is 0.9% ad valorem. A brief history of the trade negotiations and Customs practice concerning paper-making machines is attached as Annex I.

Enactment of H.R. 2327 would require the United States to raise its duty rate on paper-making machinery and parts in order to match any higher duty rates which other countries impose on such machinery.

This unilateral tariff increase, imposed without any prior negotiation, would violate Article II(1)(a) of the General Agreement on Tariffs and Trade, which provides: "Each contracting party shall accord to the commerce of the other contracting parties treatment no less favorable than that provided for in the appropriate Part of the appropriate schedule annexed to this Agreement."

This provision prohibits the United States, a GATT signatory, from increasing tariffs on an import above the duty rate agreed to either in a schedule annexed to the original GATT or negotiated at a subsequent trade round and embodied in a Protocol to the GATT. Thus, the implementation of H.R. 2327, which would unilaterally change the tariff on paper-making machinery, would expose the United States to sanctions, including compensation to parties affected by such modifications.

2. *Retaliation.*—A duty rate increase on United States imports of paper-making machines would raise the prospect that the reciprocal trade concessions granted by other nations with respect to various products exported by the United States might be withdrawn. For example, in exchange for the 1967 and 1979 reduction of United States duty rates on paper-making machinery and other products, Finland granted the United States tariff concessions, including substantial duty reductions on paper, photographic film, electrical apparatus, forestry products, non-electrical machinery and equipment, and agricultural commodities.

D. Enactment of H.R. 2327 would undermine the international trading system of counterbalancing concessions

H.R. 2327 embodies the dangerous proposition that tariff concessions must be completely symmetrical. Trade concessions rarely are symmetrical.

The fundamental mechanism of modern trade is the use of *reciprocal but not symmetrical concessions.*

The entire structure of the GATT is premised on multilateral trade negotiations in which tariff concessions for one product are exchanged for concessions on another. Nations exchange tariff reductions which offset each other, yet which do *not* involve reductions on identical products by each side.

As is almost always the case, the United States concessions on paper-making machinery were negotiated in exchange for concessions to the United States (particularly in Finland) on a range of *other* products.

It would clearly not be possible to negotiate more than a tiny fraction of potential tariff concessions between nations, if concessions were limited to those which could be made on the mirror-image basis called for by H.R. 2327. The employees of American companies which export their products would be denied the benefit of such trade concessions if the Congress were to adopt the approach taken in this bill.

Indeed, it would be patently foolish for the United States to expect that it could, for example, seek tariff rate reductions on its exports of highly sophisticated electronic equipment to less developed countries, in return for reduction of the U.S. tariff on imports of identical equipment from those countries. The less developed countries are not likely to manufacture—let alone export—such articles in the foreseeable future. Those countries would be interested in corresponding reductions of U.S. duty rates on commodities that they *do* export in significant quantities to the United States.

At a minimum, enactment of H.R. 2327 would send a disquieting signal to other countries which might well hamper the President's attempts to stimulate a new round of multilateral trade negotiations. More seriously, if Congress endorses such an approach of mirror-image tariff negotiation, it would begin to unravel the entire GATT structure of the modern system of international trade.

E. Enactment of this bill would jeopardize the United States' attempts to reduce barriers and improve relations with its trading partners

H.R. 2327 seeks to impose on imported paper-making machines the same tariff rate as the exporting country imposes on United States machines. In so doing, it presupposes that the exporting country is obtaining an unfair trade advantage because of the discrepancy in tariff rates. As noted in the previous section, this simplistic assumption is contrary to the basic premise upon which international trade and trade concessions are based. It would be inappropriate and insulting to suggest that countries with different duty rates from the United States rate on a given product are acting unfairly or had invited punitive action by the United States Congress. Thus, enactment of this bill would jeopardize the United States' ongoing efforts to reduce barriers and improve relations with its trading partners.

For example, the bill would hinder current attempts to effectuate a trade realignment between the United States and Canada, a major exporter to the United States of paper-making machinery. This is particularly significant given the special relationship and extensive bilateral trade between the two countries. Both nations have been discussing the establishment of a free trade zone. These talks would be undermined as a result of a FCN and GATT-violative measure such as H.R. 2327.

It should be noted that this bill would particularly aggravate Finnish-United States trade relations. As detailed in Annex I, Finland has not enjoyed the full benefit of the United States' tariff concessions on paper-making machinery agreed to in the 1967 and 1979 Geneva Protocols.

H.R. 2327, by increasing a GATT-bound rate on paper-making machines, takes from Finland something to which it is entitled but has not yet fully received and for which it made trade concessions to the United States. In so doing, the bill would only add to Finland's frustration over the incomplete implementation of its existing negotiated agreements with the United States. It would add insult to injury.

CONCLUSION

In sum, enactment of H.R. 2327 would:

jeopardize United States workers' jobs,

have an inflationary impact on the domestic economy,

erode competitiveness of United States paper and paper products in both domestic and foreign markets,

violate the most-favored-nation clauses in Friendship, Commerce, and Navigation treaties with United States trading partners,

violate GATT,

adversely affect United States trade relations.

For these reasons, H.R. 2327 should not be enacted.

ANNEX I—HISTORY OF UNITED STATES TREATMENT OF FINNISH PAPER MAKING MACHINES

In 1965, the government of Finland and Madden Machine Co., predecessor of TVW Paper Machines, Inc., requested from the United States Department of State and the Customs Service, respectively, a ruling on the proper interpretation of TSUS Item Nos. 668.00 and 668.06. The requests were made to ensure that components of a complete paper making machine shipped in several stages would be subject to duty at a rate applicable to complete paper making machines which, at that time, was 7%. In response, the Customs Service issued a ruling which provided a single rate of duty for all pulp and paper making machine components imported in a single shipment if designed and intended for use in any single pulp or paper making machine.

During the 1964–67 Kennedy Round of Miltilateral Tariff Negotiations, the United States agreed to reduce to 3.5% the tariff on imports of paper making machinery provided for in Item 668.00. This agreement was embodied in the 1967 Geneva Protocol to the GATT, in which the United States and Finland agreed to extend reciprocal tariff concessions on imported articles.

Madden Machine Co. again petitioned Customs in 1971 requesting that Customs confirm its 1966 ruling that partial shipments of complete paper making machines be classified as a single entity. Customs rejected the Finnish government's proposal to classify the shipment under Item No. 668.00, as unfinished paper making machines. They confirmed, however, that, unless the entity as a whole was more specifically described elsewhere in the tariff schedules, so as to bring General Headnote 10(ij) of the Tariff Schedules into operations, partial shipments of complete paper making machinery were classifiable under Item No. 668.06 as parts of a paper making machine, and entered at the negotiated 3.5% duty rate.

This interpretation was uniformly applied to all qualified entries of paper making machinery from Finland until 1974. That year, a District Director of Customs refused to apply the 1966 and 1971 rulings and requested internal advice from Customs headquarters. Customs headquarters advised the District Director to disregard the single entity concept embodied in the 1966 and 1971 rulings and to make an independent tariff classification determination with reference to each of the machine components in the shipment. The importation was no longer to be considered as a single entity. This resulted in the issuance of a Customs ruling in 1978.

The 1978 ruling designated TSUS Item Numbers for each of 13 major sections of a paper making machine. TVW was advised by Customs that it could import by major sections as identified by Customs only if 90% or more of the section was included in a single shipment, or all of the items entered in a shipment could be bolted together to form a subassembly. If neither condition were met, the shipment would be considered an assortment of parts. General Headnote 10(ij) would apply, such that, if part of an article were fully described under a separate claassification, that classification would take precedence over the general classification of which it was a part. The effect of the 1978 ruling was to subject paper making machine components to rates of duty higher than those which would have applied if the 1966 and 1971 rulings and the 1967 Geneva Protocol had been observed.

The abandonment of the single entity approach has significant consequences from an administrative and valuation standpoint. Typically, paper making machines are delivered in pieces over a period of time. Components are manufactured, delivered and erected in a very specific order. Some components have yet to be manufactured, while others are being erected at the site. Customs treats the paper making machine as a single entity for purposes of valuation, and as a series of separate articles for purposes of classification. Appraisement is withheld until delivery of the machine is complete. The transaction value of the entire machine is ascertained by reference to the contract and this value is prorated over the several entries. Classification and duty rates, however, are determined shipment-by-shipment, with the result that almost no paper making machines are classified as such. Rather, each component is classified under a separate part classification or under various other machine section provisions, including those not applicable to paper making machines, as set forth in Customs' 1978 Letter Ruling 056271 (March 18, 1978).

In an Aide Memoire dated June 17, 1977, the Finnish government formally requested that the United States re-examine the handling of the importation of parts of paper making machinery from Finland in light of the favorable Customs rulings of 1966 and 1971 and the duty rate concessions on paper making machines granted in the 1967 Geneva Protocol. As a result of this request, the governments of the United States and Finland entered into an agreement supplementary to the General Agreement on Tariffs and Trade, which provided that paper making machinery was to be accorded the lower duty rates to which the United States bound itself in the Kennedy Round. For technical reasons, the method adopted by the President to effectuate the agreement did not utilize the single entity concept which characterized the 1966 and 1971 Customs Rulings. Presidential Proclamation 4630 (December 15, 1978).

Subsequently, during the Tokyo Round of Multilateral Trade Negotiations the United States agreed to staged rate reductions for various paper making machine components and parts. However, the U.S. tariff rate concessions, as eventually implemented by statute, involved classifications and schedules which diluted the benefits that had been conferred by Presidential Proclamation 4630.

As the result of these several episodes, Finnish paper-making machinery currently is granted less favorable tariff treatment than Finland believed had been granted through Finland's prolonged tariff negotiations and diplomatic discussions with the United States in return for concessions Finland had made.

SUMMARY

TVW Paper Machines, Inc. imports and markets paper-making machinery in the United States. H.R. 2327 would change the present general categories of duty rates on paper-making machines, substituting a country-specific duty rate, equivalent to the rate on paper-making machines accorded by the country of origin. TVW Paper Machines, Inc. opposes H.R. 2327 for the following reasons:

1. It would increase duties on imports of paper-making machines which are sold in the United States, thereby injuring United States companies which import such machines and their employees.

2. The bill would cause an increase in the price of paper, which would have an inflationary impact on the domestic economy and also harm the United States

paper industry's ability to compete with foreign paper producers in both domestic and foreign markets.

3. Enactment of H.R. 2327 would violate innumerable Friendship, Commerce and Navigation treaties with United States friends and allies around the globe. These treaties confer most favored nation status, whereby each country promises to give to the other signatory the same commercial advantages which the first country has provided to its "most-favored-nation". Almost all of the nations which export paper-making machinery to the United States have most-favored-nation status under such treaties. H.R. 2327 would place the United States in violation of its many Friendship, Commerce and Navigation treaties by creating diverse, country-specific duty rates on paper-making machinery.

4. It would violate the United States' obligations under GATT. In two successive rounds of GATT negotiations, the United States agreed to reduce the tariff rate on imports of certain paper-making machinery and parts dutiable under the tariff schedule item numbers affected by this bill. The bill would substitute rates which could, in many instances, be higher than the rate to which the United States agreed as a result of GATT negotiations.

5. Enactment of this bill would hamper the United States' further efforts to reduce barriers and improve relations with its trading partners.

6. Enactment of H.R. 2327 would undermine the international trading system of counterbalancing concessions. H.R. 2327 represents the dangerous proposition that tariff concessions must be completely symmetrical. The fundamental mechanism of modern trade is the use of reciprocal, but not symmetrical concessions. Nations exchange tariff reductions which offset each other yet which do not involve reductions on identical products by each side. Requiring countries to adopt precisely identical tariff rates for identical products would undermine the modern system of international trade.

FOLEY & LARDNER,
Washington, DC, June 28, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN GIBBONS: We have previously submitted comments in opposition to H.R. 2327 on behalf of J.M. Voith GmbH of Heidenheim, West Germany, Voith, Inc. and Voith-Morden, Inc. of Appleton, Wisconsin, all manufacturers of papermaking machines.

We are herein submitting further comments on behalf of Voith S/A Maquinas E. Equipamentos of Sao Paulo, Brazil. As you may be aware, papermaking machines and parts thereof are presently accorded duty-free treatment when imported from Brazil into the United States under the Generalized System of Preferences (GSP). Our client is particularly worried that H.R. 2327 could overturn that wise judgment and therefore cause harm ultimately to the United States, to Brazil, and to the company.

Over the last eleven years (1973–1984) Brazil imported approximately $58.5 billion worth of capital goods in order to build up its infrastructure and further develop as a modern country. Clearly, it needs to continue such imports, many of which come from the United States. In order to be able to continue to buy goods from other countries, and in order pay back previous debts, many of which are held by U.S. companies and banks, Brazil must be able to continue to export products. Although the total amount of papermaking machines and parts thereof purchased from Brazil by U.S. companies may be small relative to all such machines sold in the U.S., nevertheless, those amounts are significant for Brazil and for Voith S/A. The company has invested much time, effort and funds in developing its marketing and sales effort in the United States based on the expectation of GSP treatment; any change would be very detrimental.

For these reasons, together with those expressed in our prior submission, we respectfully suggest that H.R. 2327 raises important problems that need to be reviewed through the hearing process before decisions about this bill are made. We would appreciate the opportunity to take part in such proceedings.

Sincerely,

JAMES N. BIERMAN, *Counsel.*

H.R. 2332

To suspend for 3 years the duty on P-sulfobenzoic acid, potassium salt

See statement of Salsbury Laboratories, Inc., Clarus M. Galloway, under H.R. 1734.

DUGAN & ROSEN,
New York, NY, June 25, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives Washington, DC.

DEAR MR. CHAIRMAN: This letter is written on behalf of our client, Bofors Noble, Inc., of Muskegon, Michigan, and Parsippany, New Jersey, in support of the enactment of H.R. 2332 (Mr. Evans of Iowa)—a Bill which would suspend for 3 years the duty of P-Sulfobenzoic Acid, potassium salt.

Our client imports this product from Sweden. There is no known domestic producer of this product. As a consequence the end users of the product and their customers are paying a needlessly higher price for the imported product and items produced therefrom.

Our client, therefore, respectfully requests that your Committee report this Bill favorably.

Very truly yours,

JOHN IRWIN DUGAN, *Counsel.*

H.R. 2333

To suspend for 3 years the duty on 3,5 dinitro-o-toluamide

See statement of Salsbury Laboratories, Inc., Clarus M. Galloway, under H.R. 1734

U.S. International Trade Commission

Section-by-section analysis

Section 1 of the proposed legislation would temporarily suspend the column 1 rate of duty [1] on 3-5 dinitro-o-toluamide, classified in item 411.93 of the Tariff Schedules of the United States (TSUS). The legislation would amend subpart B of part 1 of the Appendix to the TSUS to add item 906.42, affording duty-free entry to articles from countries entitled to MFN treatment, until December 31, 1988. The column 2 rate of duty [2] would remain unchanged. Section 2 would make the temporary duty suspension effective on the fifteenth day after the date of enactment.

Background

Description and uses.—The chemical, 3,5-dinitro-o-toluamide (commonly known as zoalene), is a bacteriostat that is used specifically as a coccidiostat. Coccidiostats are added to animal feed to inhibit or delay the development of animal coccidiosis, a disease caused by protozoan parasites of the family Eimeriidae (order Coccidia). The disease primarily affects domestic animals and birds and only occasionally affects man and horses. Zoalene, according to the manufacturer, is specifically oriented towards treatment of coccidiosis, especially the species *E.tenella*, in chickens. Zoalene has a molecular weight of 225.16 and a melting point of 181 °C.

Purpose.—Salsbury Laboratories is the only domestic producer of zoalene. Demand for the product is confined to a small segment of the overall market for coccidiostats. As such, the firm is of the opinion that it might prove to be more economical and competitive to import the product as needed, rather than maintaining domestic production. The possible suspension of the duty may be a significant factor influencing their decision.[3]

Comparison with present law

Tariff treatment under the TSUS.—Zoalene is classified in TSUS item 411.93. The column 1 duty rate is 10.9 percent ad valorem; the least developed developing countries (LDDC) [4] rate of duty is 8.1 percent ad valorem; and the column 2 duty rate is 7 cents per pound plus 67.5 percent ad valorem. Prior to the Tokyo round of the Multilateral Trade Negotiations, this product was classified in TSUS item 407.85 with a colum 1 duty rate of 1.7 cents per pound plus 12.5 percent ad valorem and a

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[3] The information was obtained from a representative of Salsbury Laboratory. No additional information was published in the Congressional Record or by the sponsor of the proposed legislation.

[4] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

column 2 duty rate of 7 cents per pound plus 45 percent ad valorem. Effective July 1, 1980, item 411.94 was established with staged reductions in the column 1 duty rate as shown on the following page, along with the present rates for LDDC and column 2 imports. Effective March 31, 1983, current item 411.93 was established with no change in the duty rates. Zoalene is not eligible for duty-free treatment under the Generalized System of Preferences (GSP); [5] but it is eligible for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).[6]

3,5-DINITRO-O-TOLUAMIDE: U.S. RATES OF DUTY, BY TSUS ITEM

[Percent ad valorem; cents per pound]

TSUS item No.	Description	Pre-MTN col. 1 duty [1]	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—								Col. 2 rate of duty
			1980[2]	1981	1982	1983	1984	1985	1986	1987	
411.93	Others: Products provided for in the Chemical Appendix to the Tariff Schedules.	1.7¢ + 12.5%	18%	16.6%	15.2%	13.8%	12.3%	10.9%	9.5%	8.1%	7¢ + 65%

[1] Rate effective prior to July 1, 1980, except as noted.
[2] Rate effective on or after to July 1, 1980, except as noted.

Tariff treatment under the proposed Harmonized System.—According to the September 1984 draft converted schedule, the Harmonized System (HS) commodity code number for zoalene is 2924.29.39. The product is described as a carbozyamide-function compound and as a drug. The proposed column 1 duty rate to be effective upon U.S. implementation of the HS is 6.8 percent ad valorem.

Structure of the domestic industry

Zoalene accounts for less than a 10 percent market share among coccidiostats. The overall U.S. market for coccidiostats is estimated to amount to about $75 million to $100 million annually. There are at least three other such drugs that are more commonly used and together hold approximately 70 to 90 percent of the market, according to industry sources. They could, conceivably, be substituted in place of zoalene. In general, however, the use of a particular coccidiostat in a given situation is determined by the species of coccidia involved and/or on whether the chemical agent is approved for use in the particular species and/or class of species needing treatment. Each of the coccidiostats has its own range of effectiveness. Thus, although some are used more commonly than others and may be able to be substituted for one presently in use, they do not necessarily cover the same scope in terms of species.

Domestic production

Since there is only one domestic producer of this product, production data cannot be published because they would reveal confidential business information.

U.S. imports

Import data are unavailable because this product is classified in a residual or "basket" TSUS category. According to an industry source, however, there have been

[5] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[6] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

no imports of zoalene in the last five years. The major sources for this product are Israel and Spain. An industry source has quoted an approximate market price of $2.00–$5.00 c.i.f. per pound for this product, using the current market price from Spain as an example.

U.S. exports

Data on exports of this product are unavailable since it is classified in a residual Schedule B number.

Apparent U.S. consumption

Data on apparent consumption are unavailable since there is only one domestic producer of the product; confidential business information would be revealed by their publication.

Effect on revenue

Based on Commission data and industry sources, the following tabulation sets forth estimated customs revenue losses for the three-year period from 1986 through 1988.

Estimated revenue loss

Year:	
1986	$14,000
1987	12,000
1988	13,000

Technical comments

The name of the product in the title and in the new tariff item's article description should be corrected to read ' 3,5–Dinitro-o-toluamide". In addition, the effective period of the duty suspension should end On a specified date, such as "on or before 12/31/88".

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 2333, a bill "To suspend for 3 years the duty on 3.5 [sic] dinitro-o-toluamide."

The Department of Commerce has no objection to enactment of H.R. 2333.

Enactment of H.R. 2333 would suspend the column 1 (MFN) duty of the specified chemical for a period of three years. The column 2 (statutory) duty would not be affected by this legislation. This chemical currently enters the United States under Tariff Schedules of the United States (TSUS) item 411.93 with a column 1 rate of duty of 10.9 percent ad valorem. As a result of concessions made during the Tokyo Round of trade negotiations, the MFN duty on item 411.93 will be reduced in stages to 8.1 percent ad valorem by January 1, 1987. TSUS item 411.93 is not eligible for duty-free treatment under the U.S. Generalized System of Preferences.

Duty-free entry of 3,5 dinitro-o-toluamide would lower the costs of the domestic chemical industry which uses it to manufacture toluic acid, a component of a domestically produced chemical employed in the poultry industry. There is no domestic production of this chemical.

The revenue loss from this bill cannot be accurately determined inasmuch as 3,5 dinitro-o-toluamide is one product in a basket TSUS category. Enactment of H.R. 2333 would have no impact on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

H.R. 2334

To amend the Tariff Act of 1930 to provide for an alternative drawback procedure

STATEMENT OF W. HENRY PARSONS, CHAIRMAN OF THE ALTERNATIVE DRAWBACK PROCEDURE SUBCOMMITTEE, NATIONAL COUNCIL ON INTERNATIONAL TRADE DOCUMENTATION

SUMMARY

Large and small U.S. corporations, the members of The National Council on International Trade Documentation (NCITD), all engaged in, and supporting, international trade, share a common desire to facilitate international trade.

The United States drawback laws are a national institution. The first U.S. drawback law was enacted by the First Congress in 1789, has been amended more than fifty times, but never repealed.

The drawback laws are necessarily complex, and the procedures for claiming drawback are necessarily onerous.

Depending on the nature of the claimant's business, an exporter may, with relatively little effort, research, prepare, and file his drawback claim, and in due course receive all the drawback to which he is entitled.

While the present drawback laws are adequate to facilitate the claiming of drawback by most of those entitled, there are, nevertheless, a large number of exporters for whom, because of the nature of their particular business, drawback procedures are too onerous.

H.R. 2334 proposes a simpler alternative procedure which would provide rough justice to those who now reluctantly forgo claiming drawback because of the onerous and time-consuming task of tracking imported merchandise through the manufacturing process in the United States. Under H.R. 2334, they would receive some drawback, which, obvously, is better than none.

STATEMENT

The National Council on International Trade Documentation ("NCITD") is a nonprofit organization composed of United States corporations involved in importing and exporting merchandise, and performing a wide range of activities related to international trade. Its members include manufacturers, distributors, customhouse brokers, freight forwarders, shippers, banks and insurance companies, ranging from Fortune 500 companies to small privately-run businesses. Each member has in common a desire to facilitate international trade.

NCITD appreciates this opportunity to present this statement regarding the proposed Alternative Drawback Procedure embodied in H.R. 2334.

The United States drawback statutes are as old as the American legal system. The first U.S. drawback law was enacted as part of the Tariff Act of 1789, the second act passed by the first Congress. The original law contained 101 words. It has been amended more than 50 times but has never been repealed. Drawback has been described as "a policy as firmly fixed in our government as the tariff system itself."

Drawback is a refund or remission, in whole or in part, of a customs duty paid on imported materials because of a particular use or non-use of the imported material.

The evolution of drawback in the United States has been influenced by both broad and narrow industry considerations. The drawback laws provide for a 99% refund of duties paid on imported material which is directly used in the manufacture in the United States of new articles of commerce which are subsequently exported. In addition, where a manufacturer uses both domestic and imported merchandise of the same kind and quality, it permits a refund of duty if the domestic materials of the same kind and quality are used in the manufacture of the products actually exported.

Also, imported merchandise which does not conform to sample or specification is entitled to drawback if it is re-exported under Customs' supervision.

The most recent change provides for drawback when duty-paid imported goods are not used in the United States and are exported in the same condition as imported, or when domestic or duty-free goods which are fungible with the duty-paid goods are exported in lieu thereof. There are other specific drawback provisions which are explicitly covered by the law.

Clearly, the purpose of drawback is to encourage manufacturing operations in the United States, by reducing the cost of imported materials by the amount of duty paid thereon, thus enabling American manufacturers to compete more effectively in world markets. In the case of so-called "same condition" drawback, the purpose is to encourage U.S. trade in re-exports.

Drawback has served the United States well over the past two centuries and American labor and American industry have been, and continue to be, the beneficiaries.

Certainly the more than fifty amendments to the drawback statutes over those two centuries indicate that the Congress has, historically, been sensitive to the continuing need for change and has kept the drawback laws up to date as a vibrant and important living institution.

The administration of the drawback laws and implementing regulations is a most exacting exercise, carried out admirably by the United States Customs Service. Considerable onerous detail must be furnished by manufacturers and exporters in support of drawback claims, and detailed importing, manufacturing, and exporting records must be retained by claimants for several years for possible Customs audit. The claimant must be able to prove every last penny of his drawback claim. The objective for the claimant, of course, is to claim the maximum drawback to which he is entitled.

For all manufacturing-drawback claimants the task is onerous, and for many the task is worthwhile and brings a good reward. For all claimants, obviously, the challenge is to claim, and to substantiate one's claim, for all the drawback to which the claimant is entitled. The complexity of drawback claims varies according to the circumstances of the particular manufacturing operation. For instance, for a chemical manufacturer making a simple compound from, say, four feedstocks, one of which is imported and dutiable, and production is ongoing, for that claimant the task is relatively simple. The exported manufactured product is a constant, the imported feedstock is a constant, though its dutiable value may change with market prices. Imports are in bulk quantities with few large import shipments to record. What could be easier?

At the other end of the spectrum, however, is the American manufacturer of complex machinery—in direct compeition with foreign manufacturers, both in the U.S. market and on world markets. Let us take, for example, an American manufacturer of computers, manufacturing a number of different models, and using a multiplicity of different imported parts. Let us say that he has a total of seventy-five different models ranging from the largest down to the smallest, and these figures are reerlistic, and let us say that the aggregate of his bills of material for the seventy-five different models represent a total of twelve thousand different component parts, of which some four thousand are imported component parts, imported in thousands of different shipments on which customs duty has been paid. Many of the component parts are of very small unit value, but are used in vast quantities, perhaps a few hundred of the same item in one particular model.

The mix of parts changes radically from one model to the next. Domestic parts of the same kind and quality are used interchangeably with many of the imported duty-paid parts, and both are commingled in inventory. For this computer manufacturer, a drive to collect all the drawback to which he is entitled would be a nightmare not to be contemplated.

It may be theoretically possible to put in place systems which would sustain claims for drawback in these circumstances, but the whole undertaking could be so costly, and so onerous, as to be practically impossible. Certainly the cost of operating such a scheme could exceed the annual drawback expectation.

At best our beleaguered computer manufacturer might identify some higher-value imported duty-paid items in his bills of material, which could be more easily tracked through the manufacturing process. He would very likely secure drawback on those items under the conventional manufacturing drawback statutes, but he would almost certainly end up foregoing the greater part of his actual drawback entitlement.

There are many in other industries who share the same plight in varying degrees. In other words, the burden of our message is that while drawback works well for many, for others it hardly works at all.

The National Council on International Trade Documentation (NCITD) has, for several years, taken a good hard look at the whole of this problem, and has held numerous discussions with the U.S. Customs Service in an effort to find a better way. The proposed legislation now before you is considered by NCITD to be the best available solution for those who find claiming drawback under the conventional methods too onerous or too cost-ineffective because of the nature of their particular business.

The *Alternative Drawback Procedure*, the subject of this proposed legislation, would give those people rough justice—which is better than no justice. It could give them a substantial portion of the drawback they had earned, but certainly not necessarily all of it. It would be extremely simple to claim, and just as simple for Customs to audit.

The trade-off for the claimant would be easy to swallow. His claim would be easy, but what he would leave behind would, realistically, be otherwise beyond reach anyway.

This kind of relief will be welcomed by many businesses across the United States who, today, are effectively denied the benefit of drawback. Those businesses would henceforth be strengthened in their export drives.

This proposed law contemplates that businesses manufacturing or dealing in a closely-knit family of articles, so-called cognate articles and related articles, would be the beneficiaries.

It would be the task of the Customs Service to recognize specialized businesses, or specialized divisions or subdivisions of businesses, dealing in cognate articles which would qualify for claiming drawback under the alternative procedure.

The term "cognate articles" denotes a closely associated family of articles related to each other in any of several different ways, and where it makes sense to throw them all together into the same pot for the purpose of finding a common level for establishing a basis for calculating drawback entitlement. Thus, a business engaged in the manufacture of various kinds of data processing equipment for commercial, scientific, industrial and military applications should be considered a "cognate article business unit." Likewise, a business engaged in stamping, from sheet metal, panels for such diverse uses as doors for automobiles, wall sections for prefabricated buildings, housings for machinery, but all being, in common, stampings from sheet metal, should also be considered a "cognate article business unit."

Since many "cognate article business units" would be likely to manufacture and deal in parts and accessories for the cognate articles as an integral part of the business, and since it is desirable to encourage the exportation of those parts and accessories, it makes sense to throw them, too, into the same common pot for the purpose of calculating drawback entitlement.

Thus would two objectives be achieved. Drawback claims would be simplified, and exports encouraged. There is, however, a trade-off. The claimant would get only rough justice—mostly considerably less than the drawback he had actually earned.

The simple formula for dispensing the rough justice would provide to the claimant as drawback the proportion of the duty paid on imported merchandise received during an accounting period which is equal to the proportion of his export sales to total sales during that same accounting period. The procedure contemplates that claimants would determine their own accounting period. It also contemplates that his sales for export by others be included in the equation, provided no rights to drawback were passed to the actual exporter.

The equation for determining the amount of drawback payable for an accounting period would be indeed simple, namely, the percentage of export sales to total would be multiplied by 99% of the total duty paid on imported merchandise received during an accounting period.

Thus, a cognate article business unit with total sales in the amount of $10 million for an accounting period, of which $1 million was exported, and a total of $60,000 duty payments for the period, would recover $5,940 as drawback (i.e., ninety-nine percent of ten percent of the duty payments). The permutations which could be cited are endless, but all would follow this same simple mathematical formula.

The benefit for the exporter is that he would be spared the endless and expensive travail and trauma of tracking all his imports through his production process, which, as a practical matter, could probably not be achieved anyway. And, most important, he would still be able to receive a reasonable and worthwhile drawback.

The advantage for the United States Government would be the ease with which a drawback claim could be audited, and the general benefit from encouraging, and in fact facilitating, greater exports from the United States.

Drawback, as an encouragement to export, is granted by virtually all of our trading partners. It is recognized by all as a legitimate remission of duties paid on im-

ported merchandise when that merchandise or its equivalent is subsequently exported. Nowhere is drawback regarded as a subsidy.

The concept of this proposed alternative drawback procedure is not new. The Canadian customs authorities regularly pay drawback claims calculated and presented on the basis of a virtually identical procedure, and the system is regarded as beneficial to both Canada and her exporters.

The United States should not delay in securing similar benefits.

NCITD expresses its thanks for the opportunity to present this statement and stands ready to respond to any questions you would like us to address.

H.R. 2336

To impose a duty on uranium hexafluoride (UF_6) imported from any country that requires the processing of uranium mined in that country into UF_6 before export.

U.S. International Trade Commission

Section-by-section analysis

H.R. 2336, if enacted, would amend the Tariff Schedules of the United States (TSUS) by adding new tariff provisions in order to impose a duty of $3 per pound on both column 1 [1] and column 2 [2] imports of uranium hexafluoride (UF_6) that is imported for use in reactors in the United States from any country that requires that uranium mined in that country be converted or upgraded into uranium hexafluoride (UF_6) before export. The proposed amendment would go into effect with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this bill.

The bill also provides that this new tariff provision would be eliminated by Presidential proclamation when the President finds that no foreign country requires the conversion or upgrading of uranium mined in that country into uranium hexafluoride before export from that country.

Background

Description and uses.—Almost all of the commercial value of uranium is accounted for by its use in the production of nuclear fuel for use in the generation of electricity by nuclear power plants. Most developed nations, including the United States, use light water reactors for the production of uranium fuel for use in nuclear power plants. In this process, uranium ore is converted to the oxide, uranium yellowcake (U_3O_8), which is then converted to the chemical intermediate, uranium hexafluoride (UF_6). The uranium hexafluoride is then evaporated and subjected to a gaseous diffusion process in which a portion of the uranium is enriched in its content of the fissionable uranium isotope U^{235}. The enriched uranium hexafluoride is then converted to uranium dioxide (UO_2), which is prepared as a fuel pellet for shipment to nuclear power plants. Uranium hexafluoride can be produced by employing either a wet or a dry process. In the wet process the uranium yellowcake is subjected to solvent extraction purification and denitrification to produce chemically pure uranium-trioxide (UO_3), which is then reduced to uranium dioxide and converted to uranium hexafluoride. In the dry process the uranium yellowcake is converted to uranium hexafluoride without being subjected to a solvent extraction purification step. To remove vanadium, molybdenum, and other impurities, the uranium hexafluoride is purified by distillation.

Canada's nuclear power industry used heavy water reactors, which permit the use of natural uranium as the fuel element. This dispenses with the need to produce either enriched uranium or its precursor, uranium hexafluoride.

Purpose.[3]—The proposed legislation was introduced on behalf of two domestic firms, each of which operates a plant for the conversion of uranium yellowcake to

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[3] The information contained in this section was obtained through telephone conversations between Commission staff and personnel at the two domestic firms, Allied Corporation and Kerr-McGee Corporation.

uranium hexafluoride. These firms have become increasingly concerned about a long-standing Canadian Government ministerial requirement that all uranium mined in Canada must be upgraded into uranium hexafluoride before export.

Although Canada's uranium upgrading policy had been in effect since 1958 (reaffirmed in 1974), it was not a source of significant concern to the domestic conversion industry before 1983 because of the limited capacity of the Canadian converter, and because exports of uranium from Canada to the United States for domestic use were relatively small. Since 1983, however, Canada's upgrading policy has become a major source of concern to the domestic conversion industry because of several factors, including the tripling of Canada's conversion capacity, reduced U.S. production of relatively low-grade uranium ore replaced in part by increased imports of high-grade uranium from Canada, and the phasing out of U.S. Government restrictions on enrichment of foreign-origin uranium.

Despite negotiations between the Canadian Government and the U.S. State Department and despite repeated appeals by members of Congress to the Canadian Government, the Government of Canada has not rescinded its uranium upgrading policy. Although the Canadian Government did make some policy concessions, according to U.S. Government and industry sources these concessions were not significant enough to mitigate the threat to the domestic conversion industry caused by Canada's upgrading policy.[4] Unless some action is taken the domestic conversion industry feels that its viability is threatened by The Canadian Program.

Comparison with present law

Tariff treatment under the TSUS.—Uranium compounds are classified in items 422.50 and 422.52 of the TSUS. Uranium oxide, including uranium yellowcake, is classified in item 422.50 and other uranium compounds, including uranium hexafluoride, are classifed in item 422.52. The column 1 and column 2 rates of duty for each of these items are free. No duty rates are provided for least developed developing countries (LDDCs).[5] these tariff items are not eligible for the Generalized System of Preferences (GSP),[6] but articles from eligible Caribbean countries may qualify for the Caribbean Basin Economic Recovery Act (CBERA).[7] Staged rate reductions were not negotiated for items 422.50 and 422.52 during the Tokyo Round of Multilateral Trade Negotiations (MTN).

Tariff treatment under the Proposed Harmonized System (HS).[8]—Uranium compounds having a natural isotopic composition, including uranium yellowcake and uranium hexaflouride (before enrichment), woudl be classified under item 2844.10.20 in the proposed HS.[9] Uranium enriched in U^{235} and its compounds would be classified under 2844.20.00 Uranium compounds depleted in U^{235} would be classified under 2844.30.20. The column 1 and column 2 rates of duty for all forms of uranium compounds would be free under the HS.

---

[4] One of these concessions involved a confirmation by the Government of Canada that U.S. utilities that had prior contracts with converters would continue to be exempt from meeting Canadian upgrading requirements until these contracts expire.

[5] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[6] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[7] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[8] The Harmonized System is intended to serve as the single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

[9] Source: Trade Policy Staff Committee, *Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System (September 1984).*

Structure of the industry

There are two domestic facilities for the conversion of yellowcake into uranium hexafluoride. Allied Corporation, headquartered in Morristown, New Jersey, operates a plant in Metropolis, Illinois, that has a capacity of 16,500 short tons (in units of contained U_3O_8) [10] of uranium hexafluoride. The other plant, located in Gore, Oklahoma, is operated by Sequoyah Fuels Corporation, a subsidiary of Kerr-McGee Corporation headquartered in Oklahoma City, Oklahoma. The plant has a capacity of about 11,800 short tons. In addition to operating a conversion plant, Kerr-McGee has operated a large uranium mining and milling operation which was shut down in January 1985 because of the downturn in the uranium market. Kerr-McGee's conversion facility was, however, reported to be profitable in 1984. Because of reduced market demand for uranium, employment at the two uranium hexafluoride facilities declined from 637 in 1980 to 557 in early 1985.

Canada's conversion facilities are operated by Eldorado Nuclear Ltd., a government-owned corporation also involved in uranium exploration, development, and production. Because Canada's nuclear reactors do not use enriched uranium, which is made from uranium hexafluoride, all of the uranium hexafluoride produced by Eldorado Nuclear Ltd. is produced for export. In anticipation of increased uranium export demand, Eldorado Nuclear increased its conversion capacity at Port Hope, Ontario, in late 1983 by installing a new conversion plant which tripled its conversion capacity from 5,850 to more than 17,550 short tons (in units of U_3O_8). Because of the slowdown in the nuclear industry, Eldorado has idled its old conversion plant and has laid off employees. According to a Canadian Government spokesman, Eldorado Nuclear Ltd.'s conversion facilities are operating at less than 30 percent of capacity and are losing money. The economic performance of Eldorado Nuclear Ltd.'s conversion facilities improved, however, in 1984 and was up almost 50 percent from 1983 depressed levels. According to the 1984 Annual Report of Eldorado Nuclear Ltd., new long-term contracts "increased future delivery commitments substantially."

In addition to North American conversion plants, facilities for the conversion of uranium yellowcake to uranium hexafluoride are also located in Britain and France. British Nuclear Fuels Limited has a capacity of about 12,350 short tons (in terms of contained U_3O_8), and a French plant operated by Cumurhex has a capacity of about 15,600 short tons.[11] According to industry sources, these European facilities have processed uranium for the U.S. market as well as for Europe. Conversion plants may also exist in other countries including Brazil, Japan, and South Africa. However, according to industry sources, even if these operations have been put on-stream, they have not yet had an impact on the U.S. market.

Domestic production

Because half or more of the uranium yellowcake converted by the domestic industry into uranium hexafluoride (UF_6) is mined in the United States, domestic production of UF_6 roughly tracks domestic production of uranium yellowcake. The following tabulation compares domestic production of uranium hexafluoride with domestic production of uranium yellowcake in terms of U_3O_8 content:

[In thousands of short tons]

Year	UF_6	Uranium yellowcake
1980	21.2	21.8
1981	18.3	19.2
1982	17.4	13.4
1983	16.2	10.6
1984	15.3	[1] 7.5

[1] Estimated.

As a result of the slowdown in the uranium market, the amount of uranium yellowcake converted domestically into uranium hexafluoride declined by 28 percent, from 21,200 short tons in 1980 to 15,300 short tons in 1984. The operating capacity

[10] Production and capacity figures for UF_6 (in units of contained U_3O_8) in this report do not account for product loss.

[11] As of 1982.

of the domestic conversion industry declined from about 75 percent in 1980 to about 54 percent in 1984. Industry sources estimate that production and operating capacity rates will continue to decline. U.S. production of uranium hexafluoride declined less sharply than domestic production of uranium yellowcake (which declined by around 66 percent) during 1980–84, because the domestic conversion industry was able to take advantage of many long-term contracts with U.S. utilities that were negotiated during a period of tight uranium demand. The domestic conversion industry was also less adversely affected by imports than the uranium mining and milling industry because much of the uranium imported during 1982–84 was in the form of uranium yellowcake, and was converted into uranium hexafluoride in the United States.[12]

Representatives of the domestic conversion industry feel that the Government of Canada's uranium upgrading policy is beginning to have some effect in reducing uranium hexafluoride production levels. These sources believe, however, that the full effect of Canada's uranium upgrading policy will not be felt until 1990 and thereafter, when major uranium conversion contracts with U.S. utilities expire.

U.S. imports

U.S. imports of uranium hexafluoride increased from 16.1 million pounds, valued at $626 million, in 1980 to 18.8 million pounds, valued at $849 million, in 1984 (table 1). Most of these imports were enriched at Department of Energy (DOE) enrichment facilities in the United States and then reexported.

The domestic uranium conversion industry has expressed concern over the Canadian Government's uranium upgrading policy largely because U.S. imports of uranium from Canada have increased in recent years. Imports increased because U.S. restrictions on enrichment of foreign-origin uranium were gradually phased out during 1977–83, and because uranium ores mined in Canada in recent years were found to have a much higher uranium content than uranium mined in the United States, making the cost of producing uranium yellowcake much cheaper in Canada. Should the United States institute the trade sanctions against South Africa and Namibia which are being considered,[13] imports of uranium from Canada may be expected to grow even more rapidly.

According to figures provided by the U.S. Bureau of the Census, U.S. imports of uranium compounds from Canada increased from 8.2 million pounds, valued at $346 million, in 1980 to 17.6 million pounds, valued at $509 million, in 1984 (table 2). According to figures provided by DOE, the amount of uranium delivered to DOE enrichment plants (in terms of U_3O_8 content) for domestic end use that come from Canada increased from 288,000 pounds (about 1 percent of total deliveries) in 1977 to 1.3 million pounds (about 5 percent to total deliveries) in 1983 (table 3). U.S. imports of uranium compounds from Canada continued to grow in 1985. These imports increased from 1.5 million pounds, valued at $52 million, in the first quarter of 1984 to 4.9 million pounds, valued at $119 million in the first quarter of 1985 (table 2). Most industry analysts believe that because of the natural competitive advantages that Canada enjoys, U.S. imports of uranium from Canada will continue to increase.

U.S. imports of uranium hexafluoride from Canada[14] increased during 1980–84 from 4.0 million pounds, valued at $143 million, to 8.5 million pounds, valued at $274 million (table 1).[15 16] U.S. imports of uranium hexafluoride from Canada continued to rise in 1985, increasing from 1.2 million pounds, valued at $44 million, in the first quarter of 1984 to 3.9 million pounds, valued at $101 million, in the first quarter of 1985.

U.S. exports

Shipments of uranium hexafluoride produced by the domestic conversion industry to foreign utilities fluctuated between about 1,500 and 3,500 short tons (in units of U_3O_8 content) annually during 1980–84. A major portion of these exports went to Japan, West Germany, Taiwan, and South Korea. The estimated foreign market share acquired by the U.S. conversion industry during 1980–84 amounted to 10 percent or more. The ability of U.S. converters to attract foreign utilities during 1980–

---

[12] The percentage of foreign-origin uranium yellowcake converted into UF_6 in the United States rose from an estimated 20 percent of the total yellowcake converted in 1980 to an estimated 50 percent in 1983 and 1984.

[13] H.R. 1135, 99th Congress.

[14] U.S. imports of uranium hexafluoride from Canada are believed to approximate shipments from Eldorado Nuclear Ltd.

[15] A large amount of uranium hexafluoride was imported from Canada in 1981 (8.2 million pounds). Much of these imports resulted from settlement of litigation and therefore the large import figure in that year does not appear to represent a trend.

84 was limited because conversion costs amount to only a small percentage of the total cost of uranium fuel.

Apparent U.S. consumption

Consumption figures for uranium processed by the domestic conversion industry into uranium hexafluoride are not publicly available. With the decline in market demand for uranium, only a portion of the uranium hexafluoride produced by U.S. converters was consumed due to the very high levels of uranium hexafluoride that had been acquired by U.S. utilities. According to one source, inventories of uranium currently held by U.S. utilities and suppliers are sufficient to supply the needs of the nuclear industry for about 3 to 4 years.

Effect on revenue

Because of the high level of uranium inventories currently held by U.S. utilities and uranium suppliers, which have depressed market prices for uranium, most industry sources believe that U.S. utilities would not immediately purchase uranium hexafluoride from Canada if a duty rate of $3 per pound were imposed. Eventually, however, because of the difference in production costs between domestically mined uranium and uranium mined in Canada, uranium hexafluoride from Canada could compete again in the U.S. market, especially in uranium inventories became depleted or if the United States instituted trade sanctions against other major uranium producers, such as South Africa and Namibia.

Based on the assumption that uranium hexafluoride from Canada would account for about one-third of the domestic market for uranium hexafluoride in 1991, or about 50 million pounds, customs revenue in that year due to imports of uranium hexafluoride from Canada would amount to about $150 million if the proposed legislation were in effect. Currently, the annual customs revenue from imports of all forms of uranium compounds is zero because uranium compounds are not dutiable.

Technical comments

In order to ensure that the new tariff provisions appear in the TSUS at the appropriate level of indentation, the language ", with the superior heading at the same level of indentation as the article description for item 422.50" should be inserted immediately after "thereto" in line 7 on page 1 of the bill.

Some provision should be made in the bill for the promulgation of U.S. Customs Service Regulations to inform the ports of the countries to which item 422.51 is to be applied. The regulations should also define "product of" for purposes of this provision.

It does not appear to be necessary to include section 2(b) of the bill, as the higher duty would not apply unless the conversion or upgrading were required. However, if this section is included, it should provide for the elimination of both item 422.51 and item 422.53, and the superior heading.

GATT considerations

The present rate of duty or uranium hexafluoride has been bound under Article II of the General Agreement on Tariffs and Trade (GATT). Therefore, since this legislation increases the duty above the agreed level, the United States could be subject to claims by affected contracting parties for compensatory concessions, or to retailatory withdrawal of benefits previousy granted to the United States.

TABLE 1.—URANIUM FLUORIDES: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84, JANUARY–MARCH 1984, AND JANUARY–MARCH 1985

Source	1980	1981	1982	1983	1984	January–March—	
						1984	1985
	Quantity (1,000 pounds)						
France	4,752	4,286	3,428	3,651	2,282	157	466
Canada	4,037	8,159	5,577	5,324	8,517	1,170	3,886
U King	6,085	2,979	3,979	5,149	6,082	2,962	690
Fr Germ	(1)	3	351	191	1,007	731	0
Rep Saf	37	820	1,623	1,080	888	379	0
Switzld	0	0	0	0	42	0	0
Austral	1,027	492	1,213	1,055	0	0	251
Nethlds	46	0	0	43	0	0	0

TABLE 1.—URANIUM FLUORIDES: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84, JANUARY–MARCH 1984, AND JANUARY–MARCH 1985—Continued

Source	1980	1981	1982	1983	1984	January–March—	
						1984	1985
USSR	150	25	21	21	0	0	0
Total	16,134	16,764	16,192	16,515	18,817	5,399	5,294
	Value (1,000 dollars)						
France	168,406	131,910	92,810	252,248	335,139	48,452	81,732
Canada	142,836	271,769	175,377	153,465	274,013	44,385	100,957
U King	229,869	75,481	90,682	113,680	135,171	66,940	13,821
Fr Germ	(1)	698	95,637	40,551	69,976	16,443	.....
Rep Saf	1,252	27,843	53,910	32,311	34,183	14,568	.....
Switzld	.....	.....	.....	.....	115	.....	.....
Austral	36,141	16,461	31,768	26,045	.....	.....	7,325
Nethlds	12,483	.....	.....	23,135	.....	.....	.....
USSR	34,603	11,278	9,647	9,732	.....	.....	.....
Total	625,591	535,541	549,833	651,167	838,596	190,788	203,835
	Unit value (per pound)						
France	$35.44	$30.77	$27.07	$69.10	$146.86	$308.60	$175.42
Canada	35.38	33.31	31.45	28.82	32.17	37.94	25.98
U King	37.77	25.34	22.79	22.08	22.23	22.60	20.02
Fr Germ	470.00	263.79	272.47	212.07	69.50	22.51	.....
Rep Saf	33.75	33.96	33.22	29.91	38.49	38.48	.....
Switzld	.....	.....	.....	.....	2.74	.....	.....
Austral	35.21	33.63	26.19	24.69	.....	.....	29.14
Nethlds	272.48	.....	.....	532.53	.....	.....	.....
USSR	230.53	453.62	453.60	453.61	.....	.....	.....
Average	38.78	31.95	33.96	39.43	45.10	35.34	38.50

[1] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 2.—URANIUM COMPOUNDS: U.S. IMPORT FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84, JANUARY–MARCH 1984, AND JANUARY–MARCH 1985

Source	1980	1981	1982	1983	1984	January–March—	
						1984	1985
	Quantity (1,000 pounds)						
Canada	8,187	12,816	16,641	6,247	17,618	1,490	4,928
France	4,752	4,289	3,428	3,654	2,460	307	481
Rep Saf	1,563	3,423	7,608	8,122	5,793	1,104	949
U King	6,089	2,980	4,151	5,152	6,096	2,962	748
Fr Germ	(1)	6	1,524	199	2,116	1,277	247
Austral	1,961	1,014	3,505	2,469	2,449	506	474
Nethlds	46	0	0	43	110	0	0
Portugl	0	0	327	424	252	0	0
Switzld	0	0	0	8	42	0	0
Sweden	123	5	0	0	(1)	0	0
All other	178	25	30	21	0	0	0
Total	22,900	24,558	37,214	26,340	36,936	7,646	7,828
	Value (1,000 dollars)						
Canada	346,027	410,743	457,123	176,420	509,319	51,745	118,965
France	168,406	131,984	92,811	252,406	343,402	51,581	85,980

TABLE 2.—URANIUM COMPOUNDS: U.S. IMPORT FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84, JANUARY–MARCH 1984, AND JANUARY–MARCH 1985—Continued

Source	1980	1981	1982	1983	1984	January–March— 1984	January–March— 1985
Rep Saf	31,064	84,862	200,217	197,277	145,120	33,859	17,694
U King	229,884	75,501	94,809	113,694	135,289	66,942	29,823
Fr Germ	(1)	2,137	123,234	44,010	102,858	36,442	7,807
Austral	73,496	37,482	116,622	83,029	91,867	14,683	14,015
Nethlds	12,567			23,135	4,769		
Portugl			7,960	10,293	3,695		
Switzld				140	115		
Sweden	56,573	1,428			64		
All other	43,607	11,298	10,166	9,732			
Total	961,624	755,434	1,103,943	910,135	1,336,499	255,252	274,285
	Unit value (per pound)						
Canada	$42.27	$32.05	$27.47	$28.24	$28.91	$34.73	$24.14
France	35.44	30.77	27.07	69.07	139.57	167.99	178.58
Rep Saf	19.87	24.79	26.32	24.29	25.05	30.67	18.65
U King	37.75	25.33	22.84	22.07	22.19	22.60	39.85
Fr Germ	470.00	365.55	80.88	221.10	48.61	28.53	31.60
Austral	37.47	36.96	33.27	33.63	37.51	29.04	29.58
Nethlds	270.68			532.53	43.26		
Portugl			24.34	24.30	14.69		
Switzld				16.79	2.74		
Sweden	459.43	293.34			208.45		
All other	244.69	454.39	342.59	453.61			
Average	41.99	30.76	29.64	34.55	36.18	33.38	35.04

[1] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 3.—COUNTRIES OF ORIGIN OF FOREIGN URANIUM DELIVERED TO DOE ENRICHMENT PLANTS FOR DOMESTIC END USE (THOUSAND POUNDS U_3O_8)

Country of origin	1977	1978	1979	1980	1981	1982	1983
Canada	288	350	1,414	1,344	1,164	2,012	1,258
Australia	6	286	322	524	490	1,838	438
South Africa	312	212	604	78	444	1,784	2,038
France [1]	124	364	832	372	54	354	680
United Kingdom	348	0	0	0	0	0	0
Unknown [2]	328	244	0	164	112	0	0
Total foreign	1,406	1,456	3,182	2,482	2,264	5,988	4,414
Total for domestic end use	29,886	25,370	34,054	24,752	22,398	33,072	26,128
Percent foreign	4.7	5.7	9.3	10.0	10.1	18.1	16.9
Allowable percentage	10.0	15.0	20.0	30.0	40.0	60.0	80.0

[1] Include France's African suppliers, Niger and Gabon.
[2] The country of origin is "unknown" when a utility receives uranium from an intermediate supplier who does not identify the country of origin of the uranium.

Source: Office of the Assistant Secretary for Nuclear Energy, U.S. Department of Energy.

STATEMENT OF JERRY BISHOP, GENERAL MANAGER, NUCLEAR ACTIVITIES, ALLIED CORP.

SUMMARY

Canadian government policy requires that all uranium exported be upgraded to uranium hexaflouride by Eldorado Nuclear, Ltd. a subsidized Crown Corporation.

By this policy, all U.S. and foreign processors are prevented from competing for uranium hexafluroide conversion business using Canadian-source uranium.

The Canadian policy is inconsistent with recent Canadian positions favoring free access to U.S. markets for the sale of their uranium concentrates.

The Canadian upgrading policy is restrictive and unfair, and threatens to cripple the strategically important U.S. conversion industry, which is an essential link in our nuclear fuel supply cycle.

Allied strongly supports the passage of H.R. 2336 as a means of redressing Canada's restrictive policy and ensuring the continued viability of a strategic U.S. industry.

STATEMENT

Canadian executive policy requires that all uranium concentrates be converted into uranium hexafluroide (UF_6) in Canada prior to export. The only converter in Canada is Eldorado Nuclear, Ltd., a subsidized Crown Corporation. This policy precludes all U.S. and foreign companies from competing for UF_6 conversion of Canadian source uranium. Conversion follows the mining and milling of uranium and immediately precedes the enrichment process, which is performed by the U.S. Department of Energy. Conversion is an essential step in the nuclear fuel cycle. The policy threatens the economic viability of the U.S. conversion industry.

The UF_6 conversion industry has five companies in the free world competing for business—Eldorado (Canada), Comurhex (France), British Nuclear Fuels Limited (UK), Kerr-McGee (US) and Allied (US). Of the five, only Allied and Kerr-McGee are neither state-owned nor state-backed. Electric utilities, which purchase the uranium, had been able to select conversion on the basis of traditional free-market bidding. This condition continues in other major uranium producing areas such as South Africa, Southwest Africa, Australia and the U.S.

Although the Canadian policy was first introduced in 1974, it had no significant impact until 1983, because exceptions were routinely granted. During 1983, the Canadian government began to enforce the policy rigidly and to refuse most requests for exceptions. This coincided with Canada's desire to add value to their raw materials. Late in 1983, the UF_6 conversion capacity of Eldorado Nuclear, Ltd., a Crown Corporation, was more than doubled to about 13,000 metric tons annually, with the addition of a new 9,000 metric ton conversion facility.

We understand that a compelling factor behind Canada's policy shift has been the expenditure of funds to expand Eldorado's conversion capacity. With a brand-new facility, we feel Eldorado should be able to compete over the long-term on a free-market basis for its own conversion business. However, by requiring that conversion be tied to the sale or uranium, Canada seems to be rewriting the rules it had espoused earlier about the need for free and open trade in uranium. These "new rules" are neither fair nor consistent. Canada has free access to U.S. markets and we feel the U.S. should have the same access for conversion of Canadian uranium.

In the past, Canada has opposed any restrictions on free trade in uranium. Specifically, in 1982, a bill was introduced in the Senate which would have limited the amount of foreign uranium which could be used in U.S. nuclear reactors. In response to strong objections from Canada, the Reagan Administration lobbied against and defeated the bill. Recently, U.S. utilities have been increasing the amount of uranium purchased from Canada, while decreasing the amount purchased in the U.S. This is due to the availability of newly discovered high-grade Canadian uranium deposits which are being marketed at extremely competitive prices. Under present Canadian policy this means increasing imports of UF_6. As these imports from Canada continue to rise, coupled with declining U.S. production, the effect on the domestic conversion industry, which is essential for our nuclear power fuel supply cycle, will be crippling.

Since 1977, about 20 percent of the throughout of our UF_6 conversion facility in Metropolis, Illinois has been uranium of Canadian origin. The prospect of being denied the opportunity to convert Canadian uranium in the future will have a very severe impact on our business.

Because domestic uranium deposits are relatively low-grade compared to recently discovered high-grade Canadian ore, the U.S. uranium mining industry is already fighting for survival. Should the U.S. coversion industry not be available for coversion of U.S.-mined uranium, an additional economic penalty would accrue to the U.S. mining industry in the form of additional transportation costs to foreign conversion facilities. The failure of the domestic mining industry would not only cause political and economic problems, it would remove yet another link in the nuclear fuel cycle.

The national security of the United States depends in part on the ability to be self-sufficient in all aspects of nuclear technology. Having to depend on any other nation to provide a necessary step in this process potentially subjects our nuclear capability (naval fleet and weapons production) to an uncertainty unacceptable during a period of conflict.

Allied has made numerous efforts over the past few years to get the Canadian's to withdraw their policy. This has included direct meetings with Canadian government officials and support from Senators Bentsen, Bradley, Chafee, Danforth, Heinz, Mitchell and Moynihan in seeking to have first Prime Minister Turner and then Prime Minister Mulroney withdraw the policy. The U.S. State Department has raised the issue several times with the Canadians. It has been an agenda item during bilateral meetings led by Ambassador Kennedy and during meetings of the International Energy Agency. The office of the U.S.T.R. has discussed the problem with the Canadians on several occasions and most recently before the summit meeting between President Reagan and Prime Minister Mulroney. All these attempts to have the Canadian policy withdrawn and to return to a free-market condition have met with failure.

Allied strongly supports the passage of H.R. 2336 as a means of redressing Canada's restrictive policy on uranium upgrading and ensuring the viability of the U.S. conversion industry, which is essential to our security and energy interests.

SEQUOYAH FUELS CORP.,
Oklahoma City, OK, June 27, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building Washington, DC.

DEAR MR. DOWLEY: This letter is in response to your May 21st request for written testimony for the record from interested parties on miscellaneous tariff and trade bills under consideration by the Committee. I appreciate this opportunity to address the Committee on a trade problem substantially impacting the U.S. uranium conversion industry.

THE CANADIAN UF_6 UPGRADING POLICY

Canadian government policy requires that all uranium exports by processed to the maximum extent possible within Canada prior to the granting of an export license. In a practical sense, this poicy means that all uranium mined and milled in Canada must be converted to uranium hexafluoride by Eldorado Nuclear Limited, a Crown corporation and Canada's sole uranium converter. This further processing, or upgrading, requirement capitalizes on the dramatic rise in Canadian uranium exports by trying sales of uranium conversion processing to export sales of uranium concentrates. Other processors, such as our Sequoyah conversion facility in eastern Oklahoma, are effectively barred from competing for domestic and export sales by this policy. This policy will seriously damage the U.S. uranium conversion industry and processing capability, which has significant ramifications on this nation's energy independence and security.

BACKGROUND

Although the Canadian UF_6 Upgrading Policy has been a government requirement since 1974, its impact was not significant on U.S convertors until the last few years. With the demise of the U.S. uranium production industry and increasing utility purchases of Canadian uranium, U.S. and foreign electric utilities have increasingly relied upon Canada for their uranium supplies. Since the Canadian government requires these uranium exports be converted into UF_6 in Canada as well, the upgrading policy has increasingly taken UF_6 market share away from U.S. processors.

Conversion of uranium into UF_6 is performed by only one company in Canada, Eldorado Nuclear Limited, a Crown Corporation. In 1984, Eldorado opened their new UF_6 processing facility, with annual capacity of 9,500 metric tons of uranium as UF_6. This capacity is in addition to their older UF_6 plant, with capacity of 4,500 MTU as UF_6 per year. While this combined capacity is nearly sufficient to cover all U.S. UF6 conversion requirements, it is important to note that Canadian nuclear reactors do not use UF_6—UF_6 conversion capacity in Canada has been built solely for exports.

The Canadian government has ignored repeated U.S. State Department objections to this policy, as well as U.S. concerns about the significant damage resulting to the domestic UF_6 conversion industry. Several exemptions to the export policy have been granted. Nevertheless, the basic policy and practice of prohibiting the export of uranium concentrates from Canada remains in force.

RECOMMENDATION

Given the expressed refusal of the Canadian government to amend this non-competitive and damaging trade policy, we believe some form of reciprocal action is required to mitigate the effect on U.S. commerce and employment. For this reason, we wholeheartedly support H.R. 2336, currently under consideration by the Committee.

H.R. 2336 imposes a duty on uranium hexafluoride of $3 per pound, but only from countries that require upgrading prior to export. A duty would not be applicable on imports of UF_6 from countries without such an upgrading policy, notably France and Great Britain.

We strongly urge the Committee to support H.R. 2336. This measure will help mitigate the damage to U.S. industry, energy independence, and national security resulting from Canada's UF_6 trade policies.

Very truly yours,

R.P. LUKE, *Executive Vice President.*

H.R. 2338

To amend schedule 3 of the Tariff Schedules of the United States

Department of Commerce

This is in response to your request for the views of this Department on H.R. 2338, a bill

"To amend Schedule 3 of the Tariff Schedules of the United States."

The Department of Commerce would have no objection to enactment of H.R. 2338, provided section 2 of the bill were amended to include Tariff Schedules of the United States (TSUS) item 338.80.

Enactment of H.R. 2338 would delete TSUS item 338.50 and create three new items (338.60, 338.70, and 338.80) in its place. The purpose of this change is to provide for an additional 198 statistical annotations. The items affected by this change are certain fabrics made from man-made fibers. The current rates of duty for these products would be unaffected by this legislation. Enactment of H.R. 2338 would result in a schedule which is essentially the same as that which will be adopted when the Harmonized Commodity Code System is in place.

H.R. 2338 also provides for the column 1 (MFN) duties for items 338.60 and 338.70 to be subject to the same staged rate reductions which resulted from concessions made on item 338.50 during the Tokyo Round of trade negotiations. H.R. 2338 does not continue the staged rate reductions for items 338.80; the Department recommends that this apparent oversight be corrected.

Enactment of H.R. 2338 would strengthen the Administration's ability to implement bilateral textile agreements which the United States negotiated under the Multifiber Agreement. Creating three tariff line-items allows the addition to the TSUS of sufficient seven-digit statistical lines to enumerate properly, record, and monitor U.S. imports of man-made fiber broadwoven fabrics. Improved data would also be available for market research purposes.

Since the rates of duties would not be affected by enactment of H.R. 2338, there would be no revenue loss from enactment of the bill. there also would be no impact on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

American Textile Manufacturers Institute, Inc.,
Washington, DC, June 25, 1985.

Joseph K. Dowley,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

Dear Mr. Dowley: This is in response to the Subcommittee on Trade Press Release No. 8 dated May 16, 1985 requesting written comments on miscellaneous tariff and trade bills. We are writing on behalf of the American Textile Manufacturers Institute (ATMI) to express our support of H.R. 2338, introduced by Rep. Ed Jenkins to expand the descriptive statistical suffix capabilities for man-made fiber woven fabrics in the Tariff Schedules of the United States.

Currently, the bulk of the man-made fiber woven fabrics are classified under tariff level 338.50 (100 statistical lines). H.R. 2338 expands the statistical capabilities of the USUS to enable these fabrics to be enumerated under 300 statistical lines (338.70 and 348.80). The first set of 100 lines, 338.60, is intended for wholly/chiefly filaments yarn fabrics, while the second and third set of 100 lines (338.70 and 338.80) will be used to match the statistical detail of the spun and spun/filament combination yarn fabrics to their cotton counterparts, breaking on the weight.

The variety of fabrics that can be made from the man-made fibers, either wholly of continuous man-made fibers (filaments) or from spun and/or spun/filament com-

binations is enormous. 100% filament yarn fabrics as opposed to spun and spun/filament combination yarn fabrics are truly two different classes of fabrics.

Filament yarn fabrics are unique and are not easily replaced by other fabric types. The manufacturing processes required to differentiate the filament fabrics are numerous and can be combined in many ways to create fabrics of different qualities. It is these manufacturing processes (high twist, low twist, texturizing, etc.) that determine the strengths and end-uses of the filament fabrics and should be enumerated for better import monitoring and market analysis.

The spun and spun/filament combination yarn fabrics possess the many varied qualities and uses of their counterparts in the cotton woven fabrics schedules. These fabrics can (and are) easily exchanged with the cotton counterpart (which are currently classified under six tariff levels of 98 statistical suffixes each). Accommodation of the statistical detail comparable to the cotton fabrics will enable more accurate collection of data to facilitate market analyses and monitor the textile bilateral import program.

We have discussed the legislation with representatives from the U.S. Customs Service and the Department of Commerce and unanimously agree on some minor technical changes to the bill as outlined below:

Section 1.—The wording and placement of the descriptions of the new tariff levels should be changed as follows to more accurately identify the tariff levels and incorporate consistency with the TSUSA:

"338.60	Containing 85 percent or more by weight of continuous man-made fibers, not specially provided for.	4¢/lb. + 18.8%	81%
338.70	Containing less than 85 percent by weight of continuous man-made fibers and weighing not more than 5 ounces per square yard.	4¢/lb. + 18.8%	81%
338.80	Containing less than 85 percent by weight of continuous man-made fibers and weighing more than 5 ounces per square yard.	4¢/lb. + 18.8%	81%"

This new wording does not change the intent of the bill in any way.

Section 2.—On line 2, the reference to 338.80 was omitted and should be included to read as follows: "items 338.60, 338.70, and 338.80 (as added by section 1) shall be"

Section 3.—On line 7, the placement of the commas should be changed to emphasize all articles entered for consumption rather than articles withdrawn from warehouses for consumption; insert a comma after the word "warehouse" and delete the comma after the word "consumption".

ATMI, on behalf of its members, wholeheartedly supports the passage of this legislation. Its passage will enable a more accurate and useful statistical definition of man-made fiber woven fabrics, thus assisting the textile bilateral import monitoring program and providing for a smoother data transition into the Harmonized Commodity Code nomenclature system.

Sincerely,

CARLOS MOORE, *Executive Vice President.*

H.R. 2341

Relating to the tariff treatment of imported martial arts uniforms

U.S. International Trade Commission

Section-by-section analysis

H.R. 2341, if enacted, would amend headnote 3 of schedule 3 of the Tariff Schedules of the United States (TSUS)[1] to prohibit the tariff classification of martial arts uniforms under TSUS item 379.00, a provision for certain "certified hand-loomed and folklore products". The legislation would also amend the TSUS by adding a new tariff provision for martial arts uniforms and components of cotton or manmade fibers. The proposed tariff provision would have a column 1[2] rate of duty of 40 cents per pound plus 40 percent ad valorem (ad valorem equivalent 51.8 percent, based on 1984 imports) and a column 2[3] rate of 40 cents per pound plus 50 percent ad valorem.

The effective date proposed in the bill is the 15th day after the date of enactment.

Background

Description and uses.—The articles covered by this legislation include judo, karate, and other oriental martial arts uniforms of cotton and manmade fibers for use by men, women, and children. These uniforms are distributed primarily through martial arts schools, specialty stores, and sporting goods stores. Trade sources estimated that the average wholesale price of domestically produced uniforms in 1984 was about $108 per dozen. The average wholesale price of imports of comparable quality, including duty, insurance and freight costs, was about $80 per dozen.

Purpose.—According to the sponsor of this legislation,[4] imports of martial arts uniforms are preventing the domestic industry from being competitive. The domestic industry believes that there are problems with misclassification of the merchandise. The industry maintains that martial arts uniforms are being classified as not ornamented wearing apparel rather than as they should be under the tariff provisions for ornamented wearing apparel. Ornamented wearing apparel is duitable at a higher rate. This legislation would remove martial arts uniforms from the provisions of the TSUS that make a distinction for classification purposes on the basis of ornamentation.

Comparison with present law

Tariff treatment under the TSUS.—The tariff classification of apparel, including martial arts uniforms, under subpart F, part 6 of schedule 3 is generally based on the following factors: (1) whether it is for men or boys (TSUS item 379.xx) or for women, girls, or infants (items 383.xx);[5] (2) the presence or absence of ornamentation; (3) the fiber of chief value (e.g., of "cotton"); (4) the fabric construction (i.e., "knit" or "not knit"); and (5) the kind of apparel item, whether provided for eo nomine[6] or in a residual or "basket" tariff item.

---

[1] Schedule 3 covers textile fibers and textile products. Part 6, subpart F, of schedule 3 covers apparel, including martial arts uniforms.

[2] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[3] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[4] Telephone conversation between Commission staff member and member of sponsor's staff.

[5] Apparel commonly worn by either sex and not identifiable as being intended exclusively for the wear of men and boys is classified as women's and girls' apparel (TSUS items 383.xx).

[6] An eo nomine provision is one which specifically describes an article by its name.

Martial arts uniforms are classified under eight tariff provisions. Men's or boys' uniforms that are ornamented and of cotton are classified under item 379.08 at a column 1 duty rate of 23 percent ad valorem and a column 2 rate of 90 percent. Ornamented men's or boys' uniforms of manmade fibers are classified under item 379.33 with column 1 and column 2 duty rates of 31.2 percent and 90 percent, respectively. Men's or boys' martial arts uniforms, not ornamented, of cotton, are classified under item 379.63 and duitable at a column 1 rate of 9.8 percent and a column 2 rate of 37.5 percent. Not ornamented men's or boys' uniforms of manmade fibers are classified under item 379.96 with a column 1 duty rate of 8 cents per pound plus 20.5 percent ad valorem and a column 2 rate of 76 percent ad valorem. Women's, girls', or infants' martial arts uniforms are classified under item 383.08 if they are ornamented and of cotton. The duty rates for this item are 23 percent and 90 percent ad valorem for column 1 and column 2, respectively. Ornamented women's, girls' or infants' martial arts uniforms of manmade fibers are classified under item 383.23, duitable at a column 1 rate of 31.2 percent ad valorem and a column 2 rate of 90 percent. Not ornamented cotton women's, girls' or infants' martial arts uniforms are provided for in item 383.49, duitable at 9.8 percent ad valorem for column 1 imports and 37.5 percent for column 2. Women's, girls', or infants' martial arts uniforms of manmade fibers, not ornamented, are classified under item 383.92, at a column 1 rate of 8 cents per pound plus 20.5 percent ad valorem and a column 2 rate of 76 percent.

The eight tariff provisions discussed above do not have special rates for least developed developing countries (LDDCs).[7] None of the provisions is eligible for duty-free treatment under the Generalized System of Preferences (GSP)[8] or under the Caribbean Basin Economic Recovery Act (CBERA).[9] The staged rate reductions negotiated for these eight provisions during the Tokyo round of Multilateral Trade Negotiations (MTN), for the years 1985 through 1990 are shown in table 1.

Slightly more than 80 percent of the imports of martial arts uniforms in 1984 were cotton not-ornamented uniforms for men (item 379.63) and women (item 383.49). The average calculated duty on all the imports in 1984 was 13.8 percent ad valorem, compared with 15.9 percent in 1983, 17.8 percent in 1982, and 17.2 percent in 1981. During the Tokyo round, the maximum allowable duty reduction of 60 percent was granted to all the tariff items except items 379.96 and 383.92. The duty rates for these items, covering not ornamented, manmade-fiber apparel, were reduced by slightly less than 50 percent so as to make the rates comparable to those for the competing ornamented, manmade-fiber items.

U.S. imports of martial arts uniforms of cotton and manmade fibers are subject to control under the Multifiber Arrangement (MFA).[10] No specific quotas are currently in effect for martial arts uniforms, however. Martial arts uniforms from the two largest suppliers, the Republic of Korea and Taiwan, are specifically excluded from quota under bilateral textile trade agreements effective for the 6-year period ending in 1987.

Although the bill specifically refers to item 379.00, no imports have been recorded under this provision since it was created on January 1, 1982 to implement tariff con-

---

[7] The preferential rates of duty in the LDDC column relfect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate in column 1 applies.

[8] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[9] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[10] Officially known as "The Arrangement Regarding International Trade in Textiles," the MFA provides a framework for the negotiation of bilateral agreements by importing countries, or for unilateral action in the absence of an agreement, establishing quantitative limits on imports of cotton, wool, and manmade-fiber textiles and apparel to prevent market disruption in the importing country—restrictions that would otherwise be a departure from GATT provisions. All the principal importing and exporting countries, except Taiwan, are MFA signatories.

cessions granted by the United States during the Tokyo round. This provision applies to ornamented cotton apparel for men and boys [11] made in a cottage industry (i.e., the garments must be handmade with handloomed fabrics) or to traditional folklore handicraft textile products, provided that they have been certified to have been so made, in accordance with procedures established by the United States Trade Representative (USTR) under international understandings, by an official of a government agency of the country where the products were produced. It is unlikely that many martial arts uniforms would enter under TSUS item 379.00, because the duty rate (currently 23 percent ad valorem) is significantly greater than the 9.8 percent currently imposed on cotton, not ornamented, martial arts uniforms.

Tariff treatment under the proposed Harmonized system (HS).[12]—Significant changes are proposed in the HS with respect to the classification of wearing apparel. Unlike the TSUS, the HS does not distinguish between ornamented and not ornamented apparel. Also, the TSUS treats martial arts uniforms as one unit, much like a man's tailored suit, whereas the HS treats them, with the exception of cotton martial arts uniforms, as separate articles. The HS specifically provides for cotton martial arts uniforms as a single unit under 6203.22.10 (men's) and 6204.22.10[13] (women's). However, manmade-fiber uniforms, even when imported as a unit, would be subject to duty on the individual components as though they had been imported separately. The tops of manmade-fiber uniforms would be classifiable as either a shirt or a jacket and the bottoms would be classifiable as trousers. The rates of duty proposed for manmade-fiber shirts, jackets, and trousers in the HS are substantially higher than those that would be applicable to cotton martial arts uniforms.

The proposed HS classification and duty rates for martial arts uniforms, according to the September 1984 draft Trade Policy Staff Committee version of the conversion of the TSUS into the nomenclature of the HS, appear in the appendix to this report.

Structure of the domestic industry

Although official statistics are not available concerning the domestic industry for martial arts uniforms, trade sources estimate that the number of producers is between 30 and 40, employing a total work force estimated at 1,000 persons. Most of the producers are believed to be small, primarily family-operated firms, employing less than 20 people and supplying local markets.

The industry is dominated by Century Martial Arts Supply, Midwest City, Oklahoma, which accounts for approximately 60 percent of the industry's value of shipments. The only other known large firms are Wolverine Karate Uniforms, Cleveland, Ohio, and Choi Bros., Inc., Chicago, Illinois. Together they account for about an additional 25 percent of the industry's shipments.

Industry sources indicated that only about 15 firms sell their products outside their local areas, using national advertising and other promotional activities to generate sales. The small producers primarily sell their uniforms to local martial arts schools, which, in turn, sell them to their students. Although martial arts schools are also the major customers for the larger producers, the large firms use several distribution methods. Roughly 95 percent of their sales are distributed through wholesalers or distributors and through direct retail outlets, such as martial arts schools, specialty stores, and sporting goods stores. The remaining sales are distributed through mail order and other methods of direct selling.

Domestic production

Although data are not available on domestic production of martial arts uniforms, industry sources believe that production has declined in recent years. It totaled approximately $8 million at wholesale (about $15 million at retail) in 1984.

U.S. imports

U.S. imports of martial arts uniforms fluctuated between 40,000 and 50,000 dozen during 1980–83 before increasing by 54 percent to 62,000 dozen in 1984. During the

---

[11] The corresponding tariff provision for women, girls, and infants is item 383.00.

[12] The Harmonized system is intended to serve as the single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chapters and sections, form the legal text of the system.

[13] Source: Trade Policy Staff Committee, *Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System* (September 1984).

first quarter of 1985, imports increased by another 51 percent over the first quarter of 1984. The following tabulation shows imports for January 1980-March 1985:

Year	Quantity (1,000 dozen)	Value ($1,000)
1980	43.5	2,959
1981	50.5	3,615
1982	50.3	3,162
1983	40.0	2,753
1984	61.6	4,099
January–March:		
1984	13.8	662
1985	20.9	1,497

Korea and Taiwan were the major suppliers of martial arts uniforms in 1984, accounting for 61 percent of the quantity and 66 percent of the value of total imports. Most of the remaining 1984 imports came from Japan, China, and Pakistan, as shown in the following tabluation:

Source	Quantity (1,000 dozen)	Value ($1,000)
Korea	22.1	1,617
Taiwan	15.4	1,082
Japan	7.5	611
China	7.2	338
Pakistan	6.9	319

The number of importers of martial arts uniforms totaled about 75 in 1984. Samson Industries, Inc., Chicago, and K. Inoda Co., Ltd., Los Angeles, were by far the largest importers. Samson and K. Inoda, together with Asian World of Martial Arts, inc., Philadelphia, Valor Import Corp., Hialeah, Florida, and Nozawa Trading, Inc., Los Angeles, accounted for 43 percent of total imports.

U.S. exports

Data concerning exports of martial arts uniforms is unavailable. There do not appear to be many, if any, exports of this merchandise.

Apparent U.S. consumption

Although data are not available on apparent U.S. consumption of martial arts uniforms, industry sources estimate that the market at retail totals about $25–$30 million. Approximately 40 percent of the market is believed to be supplied by the domestic industry and the remaining 60 percent by imports. In terms of quantity, the domestic industry is believed to supply only 30 percent of the market. Trade sources indicated that martial arts uniforms account for roughly 60 to 80 percent of total sales of martial arts products, with accessories, such as gloves and footwear, accounting for the remainder.

Effect on revenue

If this legislation is enacted, the duty on martial arts uniforms will be increased to 40 cents per pound plus 40 percent ad valorem (ad valorem equivalent of 51.8 percent). This would increase revenues by an estimated $2.4 million in 1985, assuming the change was in effect for the full year and import levels remained at the $6 million level of 1984 imports.[14] Since imports from Communist countries subject to column 2 rates have been negligible, the proposed higher column 2 rate will have little or no effect on the potential annual revenue gain.

Trade agreement considerations

The duty rates on the eight tariff provisions that would be affected by this legislation have been bound under Article II of the General Agreement on Tariffs and Trade (GATT). Therefore, since this legislation proposes a duty increase above the

[14] This estimate is based on a duty increase to 51.8 percent from the 12 percent trade-weighted average currently imposed on the subject merchandise.

bound rates, its enactment could subject the United States to claims by affected contracting parties for compensatory concessions, or to retaliatory withdrawal of benefits previously granted to the United States.

This legislation intends to prevent the classification of martial arts uniforms under the tariff provisions in schedule 3, part 6, subpart F for certified handloomed and folklore products (items 379.00 and 383.00). This may constitute a violation of the international understandings that led to the enactment of those provisions.

Technical comments

It is not appropriate to amend the headnotes to all of schedule 3 to make a change that will affect only subpart F of part 6 of schedule 3. Therefore, we suggest the addition of a headnote to subpart F. The headnote should not be phrased in negative terms, as is the proposed headnote stating that martial arts uniforms may not be classified under item 379.00. It should contain positive language setting forth the TSUS item number under which the merchandise is to be classified. This is particularly important here because martial arts uniforms are currently being classified under eight tariff provisions other than item 379.00. Although a headnote is not strictly necessary here because martial arts uniforms will appear at the first level of indentation in the TSUS, we believe a headnote should nevertheless be added in order to make it clear that the distinctions between men's and women's and ornamented and not ornamented wearing apparel are not to apply to this merchandise.

In order to make it clear that the new tariff provision does not come within the category of women's, girls' or infants' wearing apparel, we suggest using the number "384.00" rather than "383.98". Also, if there is to be a new tariff provision covering all martial arts uniforms, tariff items 379.63 and 383.49 should be deleted from the TSUS. If this legislation is enacted, there will no longer be any merchandise classifiable under those items.

In order to put into effect the suggestions made above, we recommend that all of the language from line 3 on page 1 of the bill through line 11 on page 2 be stricken and the following be inserted in lieu thereof:

That subpart F to part 6 to schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by amending the headnote to subpart F—

(A) by changing "headnote" to "headnotes"; and

(B) by inserting the following new headnote: "2. Martial arts uniforms of cotton or of manmade fibers are to be classified under item 384.00 regardless of whether they are men's or boys' wearing apparel or women's, girls' or infants' wearing apparel, and regardless of whether they are ornamented or not ornamented.";

(2) by deleting items 379.63 and 383.49; and

(3) by adding the following new tariff provision in the appropriate sequence:

"384.00	Martial arts uniforms of cotton or of manmade fibers, and components thereof.	40¢ per lb. + 40% ad val.	40¢ per lb. + 50% ad val.".

TABLE 1.—MARTIAL ARTS UNIFORMS: U.S. RATES OF DUTY, BY TSUS ITEMS

[Cents per pound; percent ad valorem]

TSUS item No. [1]	Description (Abridged)	Pre-MTN col. 1 rate of duty [1]	Staged col. 1 rate of duty effective with respect to articles entered on or after Jan. 1—						Col. 2 rate of duty
			1985	1986	1987	1988	1989	1990	
	Men's and boys':								
	Ornamented:								
379.08	Of cotton	35%	23%	20%	17%	14%	[2]	[2]	90%
379.33	Of manmade fibers	42.5%	31.2%	28.3%	25.5%	22.7%	19.8%	17%	90%
	Not ornamented:								
379.63	Of cotton	16.5%	9.8%	8.2%	6.5%	[2]	[2]	[2]	37.5%
379.96	Of manmade fibers	25¢ + 27.5%	8¢ + 20.5%	4¢ + 18.8%	17%	[2]	[2]	[2]	76%
	Women's, girls', or infants':								
	Ornamented:								
383.08	Of cotton	35%	23%	20%	17%	14%	[2]	[2]	90%
383.23	Of manmade fibers	42.5%	31.2%	28.3%	25.5%	22.7%	19.8%	17%	90%
	Not ornamented:								
383.49	Of cotton	16.5%	9.8%	8.2%	6.5%	[2]	[2]	[2]	37.5%
383.92	Of manmade fibers	25¢ + 27.5%	8¢ + 20.5%	4¢ + 18.8%	17%	[2]	[2]	[2]	76%

[1] Rate effective prior to Jan. 1. 1982.
[2] Rate not further reduced.

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
6203		Men's or boys' suits, ensembles, suit-type jackets, blazers, trousers, bib and brace overalls, breeches and shorts (other than swimwear):				
		Suits:				
6203.11.00	00	Of wool or fine animal hair	doz....w kg	52.9¢/kg + 2%		50.5%
6203.12.00		Of synthetic fibers	.....	30.9¢/kg + 27.5%		76%
	10	Men's	doz. w kg			
	20	Boys'	doz. w kg			
6203.19		Of other textile materials:				
6203.19.10	00	Of cotton	doz....w kg	18.8%		90%
6203.19.30	00	Of artificial fibers	doz....w kg	30.9¢/kg + 27.5%		76%
6203.19.40	00	Other	doz....w kg	3%		35%
		Ensembles:				
6203.21.00		Of wool or fine animal hair	.....	The rate applicable to each garment in the ensemble separately entered		The rate applicable to each garment in the ensemble if separately entered
	10	Suit-type jackets and blazers	doz. w kg			
	20	Other jackets	doz. w kg			
	30	Trousers, breeches and shorts	doz. w kg			
	40	Bib and brace overalls	doz. w kg			
	50	Shirts	doz. w kg			
	60	Other	doz. w kg			
6203.22		Of cotton:				
6203.22.10	60	Judo, karate and other oriental martial arts uniforms	doz....w kg	10.3%		90%

Heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
6203 (con.)		Men's or boys' suits, ensembles, suit-type jackets, blazers, trousers, bib and brace overalls, breeches and shorts (other than swimwear)(con.):				
6203.22 (con.)		Ensembles (con.): Of cotton (con.):				
6203.22.30		Other	.....	The rate applicable to each garment in the ensemble if separately entered [1]		The rate applicable to each garment in the ensemble if separately entered [1]
	10	Suit-type jackets and blazers	dos. kg v			
	20	Other jackets	dos. kg v			
	30	Trousers, breeches and shorts	dos. kg v			
	40	Bib and brace overalls	dos. kg v			
	50	Shirts	dos. kg v			
	60	Other	dos. kg v			
6203.23.00		Of synthetic fibers	.....	The rate applicable to each garment in the ensemble if separately entered [1]		The rate applicable to each garment in the ensemble if separately entered [1]
	10	Suit-type jackets and blazers	dos. kg v			
	20	Other jackets	dos. kg v			
	30	Trousers, breeches and shorts	dos. kg v			
	60	Bib and brace overalls	dos. kg v			
	50	Shirts	dos. kg v			
	60	Other	dos. kg v			

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

62-12

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
6204 (con.)		Women's or girls' suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear) (con.):				
D 6204.12.00	00	Suits (con.): Of cotton	doz....w kg	18.8%		90%
6204.13.00		Of synthetic fibers	.....	37.5¢/kg + 27.5%		76%
	10	Women's	doz. w kg			
	20	Girls'	doz. w kg			
6204.19		Of other textile materials:				
6204.19.20	00	Of artificial fibers	doz....w kg	37.5¢/kg + 27.5%		76%
6204.19.30	00	Other	doz....w kg	7.5%		65%
		Ensembles:				
6204.21.00		Of wool or fine animal hair	.....	The rate applicable to each garment in the ensemble if separately entered D		The rate applicable to each garment in the ensemble if separately entered D
	10	Suit-type jackets and blazers	doz. w kg			
	20	Other jackets	doz. w kg			
	30	Shirts and divided skirts	doz. w kg			
	40	Trousers, breeches and shorts	doz. w kg			
	50	Bib and brace overalls	doz. w kg			
	60	Blouses and shirts	doz. w kg			
	70	Other	doz. w kg			
6204.22		Of cotton:				
D 6204.22.10	00	Judo, karate and other oriental martial arts uniforms	doz....w kg	10.3%		90%
6204.22.30		Other	.....	The rate applicable to each garment in the ensemble if separately entered D		The rate applicable to each garment in the ensemble if separately entered D
	10	Suit-type jackets and blazers	doz. w kg			
	20	Other jackets	doz. w kg			
	30	Skirts and divided skirts	doz. w kg			
	40	Trousers, breeches and shorts	doz. w kg			
	50	Bib and brace overalls	doz. w kg			
	60	Blouses and shirts	doz. w kg			
	70	Other	doz. w kg			

Heading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
6204 (con.)		Women's or girls' suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear) (con.):				
		Ensembles (con.):				
6204.23.00		Of synthetic fibers	.....	The rate applicable to each garment in the ensemble if separately entered [1]		The rate applicable to each garment in the ensemble if separately entered [1]
	10	Suit-type jackets and blazers	doz. kg			
	20	Other jackets	doz. kg			
	30	Shirts and divided skirts	doz. kg			
	40	Trousers, breeches and shorts	doz. kg			
	50	Bib and brace overalls	doz. kg			
	60	Blouses and shirts	doz. kg			
	70	Other	doz. kg			
6204.29		Of other textile materials:				
6204.29.20		Of artificial fibers	.....	The rate applicable to each garment in the ensemble if separately entered [1]		The rate applicable to each garment in the ensemble if separately entered [1]
	10	Suit-type jackets and blazers	doz. kg			
	20	Other jackets	doz. kg			
	30	Shirts and divided skirts	doz. kg			
	40	Trousers, breeches and shorts	doz. kg			
	50	Bib and brace overalls	doz. kg			
	60	Blouses and shirts	doz. kg			
	70	Other	doz. kg			
6204.29.40	00	Other	doz. kg	The rate applicable to each garment in the ensemble if separately entered [1]		The rate applicable to each garment in the ensemble if separately entered [1]
		Suit-type jackets and blazers:				
6204.31.00	00	Of wool or fine animal hair	doz. kg	46.3¢/kg + 21%		50.5%
[1]6204.32.00		Of cotton	.....	12.3%		90%
		Corduroy:				
	10	Women's	doz. kg			
	20	Girls'	doz. kg			
		Velveteen:				
	30	Women's	doz. kg			
	40	Girls'	doz. kg			
	50	Other	doz. kg			

DEPARTMENT OF COMMERCE

This letter is in response to your request for the views of this Department on H.R. 2341, a bill "Relating to the tariff treatment of imported martial arts uniforms."

The Department opposes enactment of H.R. 2341.

Enactment of H.R. 2341 would increase both the column 1 (MFN) and column 2 (statutory) rates of duty on imports of martial arts uniforms to levels higher than those in effect prior to the staged reductions negotiated during the Tokyo Round of trade negotiations. The MFN and statutory duties would be set at 40 cents per pound plus 40 percent ad valorem and 40 cents per pound plus 50 percent ad valorem, respectively. The proposed legislation would result in a 1984 trade-weighted duty of 51.8 percent ad valorem, compared with a 1984 trade-weighted duty under existing 1985 MFN duty rates of 12 percent ad valorem.

Certain martial arts uniforms are considered traditional apparel items of Korea and Taiwan and as such are exempt from our bilateral textile agreements with these countries. Since H.R. 2341 further provides that no martial arts uniforms may be classified under Tariff Schedules of the United States (TSUS) item 379.00 (relating to hand-loomed and folklore products), such products could become subject to quotas.

The current MFN duties on martial arts uniforms are subject to staged reductions negotiated by the United States during the Tokyo Round of trade negotiations. These staged reductions began in 1982 and will continue through 1990. Depending on the particular classification of the martial arts uniform, the final staged reduction will reach 6.5 percent or 17 percent ad valorem.

The current rates of duties for martial arts uniforms are subject to concessions made by the United States under the General Agreement on Tariffs and Trade and are bound against increase. Any increase in the duties on these products could render this country subject to claim for compensation or to retaliation by affected countries. We believe it is inappropriate to jeopardize our trading interests in situations where injury has not been demonstrated through established administrative procedures.

Congress has provided administrative remedies in the Trade Act of 1974 for situations in which a domestic industry believes it is experiencing serious import injury or threat thereof. Under this statute, domestic industries, firms or groups of workers may petition for relief from imports. We believe this procedure, which involves a thorough investigation by the U.S. International Trade Commission, is an inappropriate recourse for the domestic martial arts uniform manufacturing industry.

There would be no revenue loss from enactment of H.R. 2341. Enactment of H.R. 2341 would have no impact on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

STATEMENT OF GARY HESTILOW, PRESIDENT, CENTURY MARTIAL ART SUPPLY

TOPICAL OUTLINE

Problem

Present tariff enforcement is not being properly applied and/or overseas manufacturers are evading it.

Explanation

The areas needing correction cannot be done administratively.

Recommendation

Pass H.R. 2341 which would simplify the classification and set a fair tariff.

STATEMENT

Mr. Chairman, thank you for the opportunity to submit our testimony to your Committee. We are requesting the assistance of you and your Committee to help strengthen out a problem that we cannot handle through our small company in Oklahoma. We manufacture karate uniforms in our Midwest City, Oklahoma plant and sell and distribute these uniforms throughout the United States. We believe we are extremely cost efficient and have an excellent marketing and sales capability. In addition, we have a strong reputation for quality and service, but are increasing-

ly being disadvantaged in our sales through the evasion of fair tariff duties by foreign competitors.

Problem

Our problem is that the present U.S. Tariff program apparently does not work in the area of importing karate uniforms. We were told that specific duty payments would be required for these imported uniforms but foreign manufacturers have continuously evaded the proper classification for these products and have received an unfairly low tariff. We were told to take our problem to Customs—which we did and received a letter from Customs agreeing to tighten up the surveillance of these imports. When this happened importers quickly repackaged their uniforms and reclassified them in order to evade the new customs polices. Our problem is that we can't have the skills or financial staying power to continue this 'cat and mouse' game with overseas companies who manipulate customs and tariff rates as part of their way of doing business. Thus we are requesting your help in simplifying the tariff for martial arts uniforms and setting it a a level where we can compete fairly with our competitors.

Explanation of Tariff Problems

For the past four years, we have been working to correct three problems facing domestic manufacturers with regard to imported martial art uniforms. these problems are:

1. These imports are exempt from "cotton quota".
2. These imports are routinely cleared by customs under improper classifications.
3. The duty is very low and is falling yearly.

The bill Congressman McCurdy has introduced will create a "level playing field" for all domestic manufacturers of martial art unforms by correcting the above mentioned problems.

I have included some documents to give you a historical perspective on our efforts at relief. With regard to item number one, all martial art uniforms are imported from Japan, Korea, Taiwan and Pakistan exempt from cotton quota. This exemption is based on martial art uniforms being "native folklore costumes". Each martial art has a distinctive uniform. Karate is native to Japan, Kung Fu is native to China and Tae Kwon Do is native to Korea. However, no distinction is made with regard to the cotton "quota". Documents number one, two and three will give additional information.

With regard to item number two, we have received binding ruling from the U.S. Customs Service on January 18, 1983 citing proper classification of martial art uniforms. (Document #4). We sent a copy of the letter enclosed (Document #5) to the ports of Los Angeles, Chicago, New Orleans, Houston, New York, San Francisco, Tampa, Miami, and Philadelphia requesting enforcement of the ruling. To our knowledge, only the port of Los Angeles made the proper enforcement (Document #6). However, I believe that items are still being imported at the lowest duty even through Los Angeles.

With regard to item number 3, the duty that most martial art uniforms are being imported at it down to 9.8% (Document #7). Since the importing company sets the classification of the goods (usually through their customs brokers) they are routinely listed at the lowest duty rate. Further, they are packaged in such a way as to conceal any decorative label. This is typical of the methods used to avoid the over 30% tariffs required for most uniforms.

Recommendations

We strongly support H.R. 2341 introduced by Congressman McCurdy. It will simplify classification to eliminate the possibility of use of "cotton quotas", "female apparel" and othe descriptions to avoid the U.S. tariff. In addition, it will set a tariff rate at a level that will make U.S. manufacturers price competitive with foreign products and will allow the aggressive marketing and sales efforts of U.S. firms an opportunity to maintain their share of the martial arts uniform market.

[Attachments have been retained in the committee files.]

H.R. 2347

To extend duty-free treatment to certain plastic sheeting used as radiation shielding material

U.S. International Trade Commission

Section-by-section analysis

The proposed legislation would extend unconditional duty-free treatment to one type of plastic sheeting presently classified in item 774.55 of the Tariff Schedules of the United States (TSUS). A new item 774.52 would be added to grant duty-free entry to articles from countries entitled to column 1 or most-favored-nation (MFN) duty rates.[1] The column 2 rate of duty [2] would be 80 percent ad valorem, the rate now applicable. Section 2 would make the amendment effective fifteen days after the enactment of the Act.

Background and sponsor's justification

Description and uses.—The subject product is a lead-impregnated, transparent, plastic sheet, generically termed "acrylic sheet," [3] which combines two properties—superb light transmission and radiation shielding. Included in the general composition of the sheet is lead in the amount of 30 percent by weight, although this can vary from lot to lot by about 1 to 3 percent. A sheet containing about 13 percent lead by weight is expected to enter the market soon. The sole producer overseas manufactures the plastic via the cell-cast method. The product is distributed in sheets ranging in size from 12 inches by 12 inches to 72 inches by 96 inches and in thickness from about 3 mm (0.118 inches) to about 44 mm (1.73 inches).

Leaded acrylic sheet is used in a variety of products, ranging from shielding screens that allow doctors to view X-ray treatment while being protected from X-ray exposure to filters that control the amount of X-ray exposure to the patient. Leaded plastic is a good substitute for leaded glass since it is more flexible, less expensive, less prone to breakage, and lighter in weight. Hospital officials reportedly do not consider unleaded acrylic sheet to be an acceptable substitute for leaded acrylic sheet as a radiation barrier, which is at present the only use for leaded acrylic sheet.

Sponsor's justification.—No statement regarding the legislation appeared in the Congressional Record.

Prior Commission investigations

The Commission has conducted two antidumping investigations concerning acrylic sheet and one review investigation concerning the subject leaded sheet. In the 1983 investigation No. 731-TA-139 (Final), the Commission found no material injury or threat thereof existed concerning imports from Taiwan of acrylic sheet classified in TSUS items 771.41 and 771.45.

In an earlier decision in 1976, the Commission found injury from imports of acrylic sheet from Japan produced by any method (inv. No. AA1921-154). The Commission's 1984 review investigation as to that finding (inv. No. 751-TA-8) was dismissed

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumberated in general headnote 3(f) of the TSUS.

[3] United States Department of Commerce, Letter to Mr. Joseph E. Lombardi, Clerk of the Court, U.S. Court of International Trade, in reference to Court No. 82-8-01226, A-588-055 CD:SF; dated May 18, 1984, p. 18. See discussion in section on prior investigations, below.

(49 F.R. 27643 of July 5, 1984) following a ruling by the Court of International Trade on May 31, 1984, that the leaded acrylic sheet covered by this legislation was outside the scope of the antidumping investigation and order.[4]

Comparison with present law

Tariff treatment under the TSUS.—Leaded acrylic sheet is presently classified in TSUS item 774.55.[5] Imports under this tariff item include articles of rubber or plastics that are not specifically provided for elsewhere in the TSUS. The current column 1 duty rate is 6.1 percent ad valorem; the least developed developing countries (LDDC) [6] rate of duty is 5.3 percent ad valorem; and the column 2 duty rate is 80 percent ad valorem. The tariff classification for this product prior to the Tokyo round of Multilateral Trade Negotiations was item 774.60, with a column 1 duty rate of 8.5 percent ad valorem and a column 2 duty rate of 80 percent ad valorem. Effective July 1, 1980, the present item and corresponding duty rates were established and the column 1 duty rate was reduced in stages, as illustrated in the tabulation on the following page. The subject product is eligible for duty-free entry under both the Generalized System of Preferences (GSP) [7] and the Caribbean Basin Economic Recovery Act (CBERA).[8]

TABLE 1.—LEADED PLASTIC SHEET: U.S. RATES OF DUTY, BY TSUS ITEM

[Percent ad valorem]

TSUS item No.	Description	Pre-MTN col. 1 duty [1]	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—								Col. 2 rate of duty
			1980 [2]	1981	1982	1983	1984	1985	1986	1987	
	Articles n.s.p.f., of rubber or plastics:										
	Other:										
774.55	Other	8.5%	8.1%	7.7%	7.3%	6.9%	6.5%	6.1%	5.7%	5.3%	80%

[1] Rate effective prior to July 1, 1980, except as noted.
[2] Rate effective on or after to July 1, 1980, excepted as noted.

Tariff treatment under the proposed Harmonized System.—The Harmonized System (HS) commodity code number for this product is 3926.90.9050, a provision covering miscellaneous articles of plastics. The column 1 duty rate proposed to be effective upon implementation of the HS is 5.3 percent ad valorem.

U.S. production and structure of the domestic industry

According to any industry publication, there is a domestic manufacturer of a. leaded acrylic polymer who offers it commercially as lead methacrylate 2-ethylhexanoate. Potential new uses for the material include viewing ports in military vehicles and encapsulating material for radioactive materials used in electronics.[9]

---

[4] *Kyowa Gas Chemical Industry Company, Ltd.* v. *United States et al.*, Slip Op. 84–61.

[5] Normally the only acrylic sheet covered by this tariff item has been acrylic sheet not over 15 inches in width and not over 18 inches in length and sheet which has been usefully processed by more than just surface working. In contrast, nearly all commercial acrylic sheet of the type covered by the 1976 dumping order is from 6 feet to 8 feet in length and 4 feet wide.

[6] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[7] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[8] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98–67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[9] Chemical Week, April 25,1984.

Sheeting made from this polymer could be similar to or substituted for the imported product. Industry sources maintain, however, that although a licensing agreement exists to produce the polymer, no U.S. commercial production of such sheeting is currently occurring.

U.S. imports

There is one importer of leaded acrylic sheet from Japan, presently the only source of the product. During 1980-84, the Commission's staff identified imports of the product ranging from below $200,000 in 1980 to approximately $450,000 in subsequent years. The current market price for the leaded sheet ranges from about $12 per square foot to about $170 per square foot.

U.S. exports

Export statistics are not separately available, since the product is classified in a residual (basket) Schedule B number.

Apparent U.S. consumption

Apparent U.S. consumption is equivalent to imports because there is currently no U.S. production.

Effects on revenue

Based on Commission data and industry sources, the following are estimated revenue losses for the three-year period from 1986 through 1988.

Estimated revenue loss

Year:	($1,000)
1986	30
1987	29
1988	30

Technical comments

The wording of the proposed article description could be amended so that no actual use must be shown and the production process needed not be verified. These requirements might pose a substantial administrative burden on the U.S. Customs Service. In addition, the specification of the amount of lead to be present in the product could be changed to cover different grades or compositions of the product and to accommodate fluctuations in the amount of lead present in the final sheet. Thus, suggested wording taking into account all these comments could be as follows:

"Transparent plastic sheet containing 10 percent or more of lead, by weight."

If the 30 percent level is desired as a threshold, to make uses other than as radiation shielding material unlikely, the words "or more of" should be inserted after "30%" in the description as drafted; not all such articles will contain precisely 30 percent lead.

It is suggested that, to avoid confusion, the words, ", with the article description thereof at the second indentation level" be added before the colon in line 5. Finally, should a temporary duty suspension be desired, the following language could be used to replace the text of section 1:

That the Appendix to the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) is amended by inserting the following new item:

"915.10	Transparent plastic sheet containing 30 percent or more of lead by weight (provided for in item 774.55, part 12B of schedule 7).	Free	No change	On or before / /	"

An appropriate termination date should be inserted.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 2347, a bill "To extend duty-free treatment to certain plastic sheeting used as radiation shielding material."

The Department of Commerce is opposed to enactment of H.R. 2347 as introduced. We would not object, however, to a suspension of duty on the item in question, provided the end-use component of the item description were eliminated. We also suggest that the description of the item be amended to read "Transparent plastic sheet containing more than 10% lead, by weight."

Enactment of H.R. 2347 would eliminate the column 1 (MFN) duty if an acrylic sheet made partly from lead methacrylate and used as a transparent radiation shielding material. The column 2 rate of duty would not be affected by this legislation. Imports of this product presently enter the United States under Tariff Schedules of the United States (TSUS) item 774.55, with a MFN duty of 6.1 percent ad valorem. This duty will be reduced in stages to 5.3 percent ad valorem by January 1, 1987, as a result of concessions made in the Tokyo Round of trade negotiations. Imports under TSUS item 774.55 are eligible for duty-free treatment under the U.S. Generalized System of Preferences.

There is no domestic production of this transparent radiation shielding material at this time. However, a few U.S. companies are capable of producing this product and might be interested in entering the market in the future, if demand grows enough to make it an economically feasible product. Therefore, we would recommend that H.R. 2347 be changed to provide for a duty suspension rather than a permanent duty elimination.

We are opposed to the inclusion of "end-use" provisions in the TSUS, such as that provided for in H.R. 2347. Such provisions create onerous and expensive burdens for the Customs Service in its administration of the customs laws.

We note that, in our view, H.R. 2347 would not fully achieve its intended result, in that it would apply only to transparent plastic sheet containing 30 percent lead by weight. We understand that there are wide variations in the amount of lead in this material, ranging from 13 percent lead by weight to over 30 percent lead by weight.

The revenue loss from this bill can not be accurately determined inasmuch as H.R. 2347 affects one product in a basket TSUS category. However, we estimate the revenue loss at about $30,000 annually. This bill would have no impact on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

H.R. 2349

To amend the Tariff Schedules of the United States regarding the classification of television apparatus and parts thereof

See statement of American Federation of Labor and Congress of Industrial Organizations under H.R. 821.

Statement of the Committee To Preserve American Color Television

SUMMARY

1. COMPACT strongly urges the Subcommittee to support H.R. 2349, a bill to amend the Headnotes to Part 5, Schedule 6 of the Tariff Schedules of the United States.

2. H.R. 2349 would add a new Headnote to the Tariff Schedules which would require that television picture tubes imported in combination with, or incorporated into other articles, to be classified under the separate provisions for television picture tubes, unless they are incorporated into complete television receivers.

3. If enacted, H.R. 2349 would eliminate the loophole that has enabled foreign manufacturers to elude the 15 percent duty on color television picture tubes be entering those picture tubes as parts of "unfinished television receivers," dutiable at a rate of 5 percent ad valorem

4. Background of the problem:

Since 1982, Matsushita Industrial Company has been importing from Mexico chassis and control panels for television receivers assembled in Mexico in combination with television picture tubes manufactured in Japan.

By importing these separately-packaged items together, Matsushita has been able to circumvent the 15 percent duty on color television picture tubes by declaring the entire entry as an "unfinished television receiver."

Customs rejected a challenge to this practice, notwithstanding the fact that the President had no intention of altering the classification of color television receivers or picture tubes when he created in 1977 the classification category now in dispute.

5. Need for legislation:

The classification policy has resulted in a loss duties to Customs of approximately $6 million.

Moreover, the policy has resulted in a 327 percent growth in imports of incomplete receivers from Mexico between 1982 and 1984.

COMPACT is concerned that other foreign producers will establish perfunctory U.S. assembly operations in order to exploit the loophole.

6. Proposed change in the legislation:

COMPACT, while supporting H.R. 2349, is concerned that the bill does not eliminate the item in the Tariff Schedule encompassing "incomplete receivers having a single picture tube." under which the subassemblies, which were the subject of the Customs' challenge are currently entered (item 684.96, TSUS).

The continued existence of this item is in direct conflict with the changes in the Headnotes embodied in H.R. 2349. Accordingly, the legislation should be modified to delete item 684.96,TSUS.

Modification of H.R. 2349, as recommended by COMPACT, would be consistent with the fact that the item proposed to be deleted was intended merely to create a means for monitoring imports of incomplete television receivers during the period of the Orderly Marketing Agreements.

STATEMENT

This statement is submitted on behalf of the Committee to Preserve American Color Television (also known as COMPACT), an unincorporated association made up of manufacturers in the domestic television industry and eleven labor organizations

which represent the overwhelming number of workers in the domestic television industry including workers engaged in the manufacture of materials, parts and subassemblies irrevocably destined for incorporation in television receivers and color television picture tubes, as well as workers engaged in the final assembly of color television picture tubes and finished television receivers. The list of COMPACT members is attached to this statement (see Appendix A).

Description of bill

COMPACT is submitting this statement in support of H.R. 2349, introduced on May 2, 1985, by Congressman Dan Rostenkowski (D-Ill.), Chairman of the House Ways and Means Committee. H.R. 2349 would amend the Headnotes to Part 5 of Schedule 6 of the Tariff Schedules of the United States (19 U.S.C. § 1202) ("TSUS"), which interpret the various tariff provisions encompassing television receivers and parts. The bill would add a new Headnote to the Tariff Schedules which would require television picture tubes imported in combination with, or incorporated into other articles, to be classified under the separate provisions for picture tubes (items 687.35–687.44, TSUS), unless they are: (1) incorporated into complete television receivers; (2) incorporated into fully assembled units such as word processors or ADP terminals; (3) put up in kits containing all the parts necessary for assembly into complete television receivers; or (4) put up in kits containing all the parts necessary for assembly into fully assembled units such as word processors or ADP terminals. The bill would also modify the Headnote definition of a complete television receiver to require that the receiver be "fully assembled in its cabinet." Currently, the Headnotes merely require that the receiver be "fully assembled."

The purpose of H.R. 2349 legislation is to ensure that color television picture tubes imported separate from, but in connection with various subassemblies of television receivers are separately classified under the eo nomine provision for television picture tubes, dutiable at a rate of 15 percent ad valorem. The legislation would ostensably prevent circumvention of the higher duty on the picture tube by eliminating the loophole that enables such entires to be classified as unfinished television receivers, dutiable at a rate of 5 percent ad valorem. As such, the legislation would set aside the recent ruling by the U.S. Customs Service that certain assemblies with picture tubes imported by Matsushita Industrial Corporation from Mexico constitute unfinished television receivers, dutiable at 5 percent.

Background of the problem

Since May 1982, Matsushita Industrial Company ("MIC") of Franklin Park, Illinois, has been importing substantial quantities of color television picture tubes manufactured in Japan and shipped to its assembly facility in Mexico, Matshshita Industrial de Baja California ("MIBA"). Each television picture tube is subsequently transshipped to the United States together with a chassis and control panel which were assembled at the MIBA plant in Mexico. Folowing their arrival at MIC's television assembly plant in the United States, the television picture tube from Japan, and the chassis and control panel assembled in Mexico, are incorporated in color television receivers assembled by MIC. Final assembly of these color television receivers requires the addition of a cabinet, a deflection yoke and speakers, and in some instances a degaussing coil, as well as other parts, assemblies and components presently unknown to petitioners.

No manufacturing operations are performed on these picture tubes after they leave Japan. When the chassis and control panel come off the Mexican assembly line and are packed on the truck for shipment, MIBA places the Japanese TV picture tube (still in its original carton) on the same truck, one per assembled chassis and control panel. The final importation will consist of three entities: two of which were products of Mexico as a result of a Mexican assembly operation—the assembled chassis and assembled control panel—and one that is the product of Japan with no work performed in Mexico—the television picture tube. The U.S. Customs Service determined in September 1981 that the importation would be classified under the provision for television receiver assemblies (including kits) with picture tubes in item 685.14, [now 684.96] TSUS, dutiable at a rate of five percent ad valorem.[1] The ruling was based on a factual presentation submitted to Customs by MIC.

---

[1] Item 685.14, TSUS [now 684.96], provided in part:
Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and parts thereof (con.):
Television apparatus, and parts thereof (con.):
Television receivers and parts thereof (con.):

Continued

Approximately eight months after the Customs ruling, imports of "television receiver assemblies (including kits) with picture tubes"—exactly as described in the MIC presentation—began entering the United States from Mexico, and those imports have continued to come in at an ever increasing rate. Prior to May 1982, such imports were non-existent. The monthly breakdown of these imports is summarized in Appendix B.

On September 19, 1983, four labor organizations, which are members of COMPACT and which represent workers engaged in the production of color television picture tubes, filed a petition for reclassification (hereinafter referred to as "petition") pursuant to section 516(a) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1515(a) (Supp. III 1979).[2] The petition challenged the current practice of the U.S. Customs Service ("Customs") of classifying Japanese color television picture tubes, imported from Mexico in their original cartons with assembled chassis and assembled customer control panels, as color television receivers assemblies (including kits) having picture tubes under Schedude 6, Part 5, Item 685.14, Tariff Schedules of the United States ("TSUS"). The petitioners contended that the color television picture tubes included in these importations should be entered separately as products from Japan under item 687.35, TSUS, dutiable at a rate of 15 percent. In the petition, it was argued that the President did not have the authority, nor did he intend to create the eo nomine provision for television receiver assemblies upon which Customs had relied to classify color television picture tubes under the general designation for television apparatus and parts thereof, dutiable at a rate of 5 percent.

Alternatively, it was argued by the domestic industry, that notwithstanding the invalidity of the TSUS item numbers in question, Customs' classification of the imported merchandise under item 685.14, TSUS, is incorrect since the articles in question do not constitute a substantially complete television. Customs in a letter dated November 15, 1984, rejected both of these arguments. Customs' denial of the petition is now on appeal before the U.S. Court of International Trade.

Need for legislation

While COMPACT is confident that the legal position set forth by the domestic industry in the proceeding before Customs will be vindicated, there is concern that by the time the judicial process runs its course, the damage that will be done by the continued exploitation of the Customs loophole by Matsushita—and by others who might similarly exploit the loophole—will be irreparable. Already the exploitation of the loophole has resulted in a loss to Customs of approximately $6 million in revenue, based on the amount of duty that would have been collected on the value of the picture tube were it classified separately under item 687.35, TSUS, dutiable at 15 percent, rather than as part of an incomplete television receiver under item 685.14, TSUS, dutiable at a rate of 5 percent ad valorem. Of even greater concern to COMPACT, however, is the 327 percent growth in imports of incomplete receivers from Mexico between 1982 and 1984, and the prospect that other foreign producers will establish perfunctory U.S. assembly operations in order to exploit the loophole. That loophole has enabled foreign producers to circumvent the 15 percent duty on picture tubes under the pretense that a color television picture tube, imported in connection with an incomplete and untested subassembly constitutes a "television receiver" for duty purposes. Such a loophole must be eliminated.

Proposed change in the legislation

While COMPACT urges the Subcommittee's active support for prompt consideration and expeditious approval of H.R. 2349, there is concern from a technical

---

Having a picture tube (con.):
Assemblies (including kits containing all parts necessary for assembly into complete receivers) (con.):
Color—5 percent ad valorem
Kits containing all parts necessary for assembly into complete receivers.
Incomplete receivers having a single picture tube intended for direct viewing, with a video displa diagonal of
12 inches and under
13 inches through 17 inches
18 inches and over

[2] The United Steelworkers of America represent employees in the color picture tube (CPT) plant operated by Philips ECG in Seneca Falls, New York. The International Brotherhood of Electrical Workers represent workers at CPT plants operated by Zenith Radio Corporation in Melrose Park, Illinois; and RCA in Marion, Indiana and Lancaster, Pennsylvania. The International Union of Electronic, Electrical, Technical, Salaried and Machine Workers, AFL-CIO, represent workers at General Electric's CPT plant in Syracuse, New York. Each of these Unions are members of the Industrial Union Department, AFL-CIO.

standpoint that the legislation—as currently drafted—creates an inconsistency in the Tariff Schedules that may result in a continuation of the current problem. Specifically, H.R. 2349 does not eliminate the item in the Tariff Schedules encompassing "incomplete receivers having a single picture tube" (item 684.96, TSUS), under which the subassemblies, which were the subject of the Customs proceeding, are currently entered. The continued existence of this item is in direct conflict with the changes in the Headnotes embodied in H.R. 2349, since the proposed changes would ostensibly eliminate the possibility of having an item consisting of an incomplete receiver with a picture tube classified as a separate entity. While a court would probably rule, on the basis of legislative intent, that the new legislation would take precedence over the existing provision of the Tariff Schedules, the continued existence of items 684.96, TSUS, and the conflict it might engender, could be eliminated simply by the addition of a provision deleting item 684.96, TSUS. Such an action would be consistent with the fact that this item was merely intended to create a means for monitoring imports of incomplete color television receivers during the period of the Orderly Marketing Agreements and not to affect the substantive classification of the articles in question. Moreover, in view of the fact that the Orderly Marketing Agreements have lapsed, the need to have a provision for monitoring imports of various television assemblies has passed.

Conclusion

For the foregoing reasons, COMPACT urges the Subcommittee to support prompt enactment of H.R. 2349. Passage of such legislation will ensure that a major loophole in the Tariff Schedules, which has resulted in a substantial deprivation of revenue to Customs, and which has provided foreign producers with a significant competitive benefit in the marketplace, will be eliminated. COMPACT also urges the Subcommttee to amend H.R. 2349 by adding a provision which would delete item 684.96, TSUS, thereby eliminating any ambiguities that might arise out of this legislation.

APPENDIX A

MEMBERS OF THE COMMITTEE TO PRESERVE AMERICAN COLOR TELEVISION

Allied Industrial Workers of America, International Union
American Flint Glass Workers Union of North America
Communications Workers of America
Corning Glass Works
Glass Bottle Blowers' Association of the United States and Canada
Independent Radionic Workers of America
Industrial Union Department, AFL–CIO
International Association of Machinists
International Brotherhood of Electrical Workers
International Union of Electronic, Electrical, Technical, Salaried and Machine Workers, AFL–CIO
Owens-Illinois, Inc.
United Furniture Workers of America
United Steelworkers of America
Wells-Gardner Electronics Corporation

APPENDIX B

U.S. imports for consumption of color television kits [1] from Mexico, annual 1982–1984, and January–April 1984 and 1985

[In units]

1982	117,756
1983	413,028
1984	502,305
Jan.–Apr. 1984	173,058
Jan.–Apr. 1985	187,306

[1] TSUSA item 685.1455 through 1985. TSUSA item 684.9655 in 1985.

Source: U.S. Department of Commerce data, IM146 and IM145X.

STATEMENT OF CHARLES H. PILLARD, INTERNATIONAL PRESIDENT, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

The International Brotherhood of Electrical Workers (IBEW), of which I am the International President, represents about one million workers in the electrical/electronics industry. We are the leading union representing workers in the domestic color television industry. We represent the production workers at the Zenith Electronics Corporation plant in Melrose Park, Illinois, which produces color TV tubes, as well as the workers at the Springfield, Missouri, Zenith TV assembly plant. We represent the workers that produce color TV tubes for North American Philips at the Ottawa, Ohio, plant. We also represent workers producing color TV picture tubes at the RCA corporation plants in Circleville, Ohio, and Marion, Indiana, and other domestic production facilities.

The IBEW, because of its long involvement in the color TV industry, sees the need for and strongly supports HR 2349. The members of the IBEW have been severely impacted upon by the devastating levels of imports of television from Japan, South Korea, and Taiwan. We have experienced thousands of job losses in the TV industry as a result of unfair trade practices of those countries. These job losses are well documented in the records of ITC hearings and court cases involving this industry.

HR 2349 is a much-needed clarification of provisions in the Tariff Schedules relating to the 15 percent duty Congress specifically prescribed for imports of color picture tubes. Since 1983 Matsushita, a leading Japanese manufacturer of color TV tubes and sets, has been evading the 15 percent duty by channeling its 19" tubes produced in Japan through Mexico. The Japanese tubes are loaded on trucks in Mexico with some Mexican-produced television components. At the United States border, these shipments are being treated by Customs as "unassembled or not finished television receivers" which are now being treated as "television receivers" for tariff purposes at a 5 percent rate. By this device the proper duty on the color tubes is being avoided.

If the Japanese are allowed to get away with this scheme, it is only a matter of time until Taiwan and South Korea will also do something similar. By this device it appears they could also avoid both the proper duty on imported color television picture tubes and the several anti-dumping order in place on television receivers. These manufacturers can circumvent U.S. law by importing into this country TV picture tubes with other components in one shipment (thereby avoiding the 15 percent picture tube tariff) and importing most but not all components in one shipment (thereby avoiding dumping duties).

This is not the first attempt the Japanese have made to circumvent the 15 percent tariff on color picture tubes. In 1982 the Committee of Examiners of the Foreign Trade Zone Board, Department of Commerce, responded to a Japanese petition to establish a foreign trade zone adjacent to a U.S. television assembly plant of Sanyo Manufacturing Company. This plant, located in Forest City, Arkansas, is a wholly-owned subsidiary of Sanyo Electric Company, Ltd., a leading television manufacturer and exporter of television receivers in Japan. The Committee made an in-depth study of the effect a granting of the petition would have on the capital- and labor-intensive U.S. tube industry. After reviewing at length submissions of Japanese and United States interests (including IBEW), the Committee concluded that the petition could only be granted on condition that all imports of tubes to the trade zone must continue to bear the 15 percent duty Congress had prescribed. The Committee expressly stated that the tubes should not be permitted to come in at the 5 percent rate for television receivers that trade zone status of the television assembly plant normally would confer.

It is unfortunate that the Customs officials are not similarly concerned about the history and problems of the television industry. Because they are not, the passage of HR 2349 with the change suggested below is imperative.

As we have clearly stated above, the IBEW strongly supports HR 2349; however, we are concerned that even with the passage of the bill an inconsistency may arise that could result in a continuation of the current problem. Specifically, HR 2349 does not eliminate the item in the Tariff Schedules encompassing "incomplete receivers having a single picture tube" (item 684.96 TSUS) under which these subassemblies are currently entered. While that item was established for statistical purposes during the OMAs, Customs has conferred eo nomine status on it through its recent rulings. The continued existence of this item is therefore in direct conflict with the changes embodied in the bill. While a court might rule, on the basis of legislative intent, that HR 2349 would take precedence over the existing provision of item 684.96 TSUS and the conflict it might engender could easily be eliminated by a

provision in the bill deleting the troublesome item. We, therefore, recommend that a provision be added to the bill deleting item 684.96 TSUS.

If the latest Japanese artifice to evade the 15 percent duty on tubes Congress imposed is allowed to persist, it will be widely exploited by all Far East manufacturers, many of whom are greatly expanding capacity already well beyond current demands. The manufacture of color tubes in the United States may not survive the assault with the resultant loss of the jobs of many more thousands of IBEW-represented workers.

H.R. 2349 would not raise existing tariffs but would close a loophole in the Tariff Schedules created by the highly controversial Customs ruling. The bill also would preclude the use of a method for the evasion of dumping orders now possible under these current rulings. The IBEW, through its local unions, represents many thousands of workers in the color television manufacturing industry. The passage of H.R. 2349 is vital to the preservation of those jobs.

Statement of Matsushita Industrial Co.

SUMMARY

Matsushita Industrial Company ("MIC") submits these comments to the Subcommittee on Trade, Committee on Ways and Means of the United States House of Representatives, in opposition to H.R. 2349. MIC is a U.S. manufacturing division of Matsushita Electric Corporation of America, which is the U.S. subsidiary of Matsushita Electric Industrial Company of Osaka, Japan. At its facility in Frankin Park, Illinois, MIC produces a majority of the Panasonic and Quasar color television sets sold in the United States and employs U.S. workers in such production.

The bill would reclassify and increase the duty on color television picture tubes which are imported together with corresponding assemblies (such as chassis and control panels) but which are not, at the time of importation, incorporated into a finished television receiver or included in a kit containing all of the parts necessary for assembly into a finished receiver. This change would reverse longstanding Customs practice and, specifically, a 1984 administrative decision that television assemblies having a picture tube are dutiable at 5% ad valorem. The bill would force a division of the importations of assemblies having a picture tube, so that the "picture tube" portion would be dutiable at 15% ad valorem.

There are four major reasons why H.R. 2349 should not be enacted.

1. Perhaps most importantly, it would have the perverse effect of harming American companies and their employees. This would arise because of the substantial cost increase that MIC and other U.S. companies would experience for their picture tube purchases. Because of the magnitude of these cost increases, its passage would lead to the loss of a substantial number of U.S. jobs and a shift in employment to production offshore, as well as to a decrease in purchases of domestically produced picture tubes and other television components.

2. By changing the rules relied on by MIC and others in structuring their U.S. operations, enactment of H.R. 2349 would strongly discourage future investment by foreign companies in production facilities in the United States.

3. H.R. 2349, if enacted, would cause the United States to be in violation of its obligations under the General Agreement on Tariffs and Trade ("GATT") to refrain from duty increases on "bound" tariffs.

4. The bill's passage would ignore well-established principles of tariff classification and would disrupt the statutory judicial review of the 1984 Customs decision.

BACKGROUND

A. The domestic industry

The domestic color television receiver market is intensely competitive, with over 25 different companies in the United States and abroad supplying the market with over 30 brand labels. Of these, more than 15 companies—and all of the major brands—sell color televisions which are produced in the United States. The domestic industry has historically had low profits, and recent experience is in line with that history, notwithstanding a strong demand and equally strong performance by MIC and other domestic producers. Virtually all domestic producers manufacture in the same way that MIC makes its Panasonic and Quasar receivers—by sourcing various components and assemblies outside the United States for final assembly here.[1]

---

[1] For example, Zenith Electronics Corporation has moved "most component manufacturing operations to Mexico." *Facing Up to Hard Trues at Zenith*, Fortune, June 25, 1985 at 67.

Indeed, MIC was one of the last domestic producers to establish a component facility in a "lower wage" country.

There are only four domestic producers of color picture tubes: RCA Corporation ("RCA"), Zenith Electronics Corporation ("Zenith") (Rauland Division), North American Philips Corporation ("Philips") (Magnavox, Sylvania, Philco), and the General Electric Company ("GE"). Domestically produced picture tubes numbered nearly 11.5 million [2] In 1984 and accounted for approximately 88.8% of the total color picture tubes supplied for color television assembly in the United States.[3] As these figures demonstrate, the domestic picture tube producers are operating at a high capacity utilization rate and enjoy a very strong position in the market for their products.

Further, it is important to note that the four U.S. picture tube producers captured a total of over 50% of the 1984 U.S. market for completed television receivers: RCA (19.9%), Zenith (17.5%), Magnavox/Sylvania/Philco (9.7%), and GE (7.6%). The numerous other finished color television U.S. producers, including MIC, thus, must obtain picture tubes either by purchasing them from one or more of their four leading competitors in the finished receiver market or by importing at least some of them. For this and other reasons, all of the U.S. receiver producers, including three of the four picture tube producers, rely, to a greater or lesser extent, on imported picture tubes.

Shares of the U.S. color television receiver market in 1984 are reproduced below:

SHARE OF U.S. COLOR TV MARKET IN THE 1984 MODEL YEAR

Rank	Brand	1984 % share
1	RCA	19.0
2	Zenith	17.5
3	GE	7.6
4	Sears	7.1
5	Sony	6.5
* 6	Magnavox	5.7
* 7	Sylvania	4.2
8	Panasonic	4.0
9	Quasar	4.0
10	Hitachi	2.7
11	Sharp	2.5
12	Montgomery Ward	2.45
13	Mitsubishi	2.0
14	Sanyo	1.55
15	J.C. Penney	1.5
16	Teshiba	1.4
17	Samsung	1.2
18	Curtis Mathes	1.2
19	Gold Star	1.0
20	Emerson	1.0
* 21	Philco	1.0
22	Capehart (NATM)	0.6
23	Sampo	0.6
24	Portland	0.5
25	NEC	0.5
26	Teknika	0.4
27	AOC brand	0.4
28	Tatung	0.3
29	JVC	0.3
30	Fisher	0.25

* Manufactured by North American Philips Corporation. Combined market share for these three brands is 9.7%, giving Philips the third largest market share.

Source: Television Digest, June 3, 1985, at 14.

[2] This figure represented approximately 80% of total estimated U.S. production capacity of 14 million tubes. This compares quite favorably to the average capacity utilization for all U.S. manufacturing industries of 67%. (Source: U.S. Department of Commerce, Bureau of the Census.)

[3] These figures are based on estimates by MIC of domestic production and on 1984 U.S. Department of Commerce import statistics for picture tubes (item 687.35) and color television receiver assemblies (item 684.92, formerly item 685.14).

B. MIC

MIC's television plant, located in Franklin Park, Illinois, produces approximately 55% of the Panasonic and 82% of the Quasar color television sets sold in this country. The Franklin Park facility currently employs over 1300 persons, including some 900 employees who are directly involved in television set production and 400 support staff.

Most of the color televisions produced at MIC utiiize imported television chassis and control panels which are assembled in Mexico, at a facility operated by a related company, Matsushita Industrial de Baja California ("MIBA"). The chassis and control panels are assembled from many individual foreign and U.S. components, such as integrated circuits, resistors, etc., onto printed circuit panels. For many color models, MIBA ships the assembled chassis and control panels to MIC together with corresponding color television picture tubes manufactured in Japan. These chassis, control panels and picture tubes are always imported and entered together, on the same vehicle and in equal numbers.[4] to reduce the substantial risk of breakage during handling and transit, the chassis and control panel are packaged separately from the picture tube. MIC at Franklin Park then undertakes final production by assembly into U.S.—produced cabinets with other U.S. and foreign components, testing, and adjustment.

Although MIC did not acquire its present name until 1979,[5] its production in the U.S. dates back to 1974. After commencing production in that year at its facility in Franklin Park, MIC's operations and productivity grew steadily for several years. In 1979, however, the price of domestic color picture tubes began to rise until, by 1981, MCI found itself faced with a more than 30% increase over the 1979 price from its domestic suppliers, who, as previously noted, are also its competitors in sales of finished televisions. Simultaneously, retail prices for finished color television sets—including those for the domestic companies supplying color picture tubes—were stable or declining, threatening to render MIC's production of color televisions in the U.S. totally unprofitable. Consequently, MIC began the search for feasible alternatives to resolve this crisis. One alternative was, obviously, to decrease production costs by transferring production offshore.

Instead, however, MIC chose to do two things. First, it made substantial investments by replacing existing production lines with "second generation" advanced production lines, known as "Super Lines," which made major improvements in capacity, quality and productivity. Secondly, it began to diversify its sources of supply, relying more on imported picture tubes than it had done previously.[6] As part of its program, MIC determined to import, through its MIBA facility in Mexico, picture tubes with control panels and chassis and requested a binding tariff ruling from the Customs Service in 1981 that such imports would be classified as television assemblies having a picture tube at a duty rate of 5%. The favorable Customs ruling was, thus, a major factor in allowing MIC to retain its U.S. production facility in Franklin Park.

C. Customs treatment and judicial review of the existing importation

The Customs Service has carefully considered the issues involved and, in several letter rulings and a formal administrative decisions, has properly classified MIC's chassis/control panel-picture tube importations within 1985 Tariff Schedules of the United States (TSUS) item number 684.96 (formerly item number 685.14, TSUS), having duty of 5% ad valorem. This item covers "television assemblies having a pic-

---

[4] In 1984, MIC imported over 500,000 picture tubes, with corresponding control panels and chassis, through its MIBA facility. In addition to MIC's imports from Mexico, tube-inclusive color assemblies and kits are also being imported by other domestic television manufacturers from Malaysia, Korea, Japan, and Singapore. See Television Digest, May 27, 1985, at 16, col. 2; U.S. Department of Commerce import statistics.

[5] Matsushita Electric Industrial Company, Ltd., MIC's Japanese parent, purchased the consumer electronics division of an established corporation in 1974 and established the new joint sales and manufacturing company as Quasar Electronics Corporation. In 1979, this corporation was divided into Quasar Company, a sales operation, and MIC, which is engaged solely in the manufacture of consumer electronic goods.

[6] MIC continues to purchase a high percentage, about 45% in 1984, of its picture tubes from the four domestic producers. There are three primary reasons for continuing these large purchases. First, the continuation of significant business relationship guards against any disruptions in supply from imported sources (due to dock strikes, for example) and sudden changes in currency values. Second, the physical supply flow, i.e., short-term needs for additional tubes can be met more easily. Third, it is a policy of MIC, as a U.S. producer, to purchase substantial quantities of U.S. components whenever possible.

ture tube," which is an exact description of the joint imports of television chassis, control panels, and picture tubes.

As noted above, the Customs Service's first such classification came in 1981 upon MIC's request for a binding tariff ruling before beginning its picture tube-assemblies importation. Customs again upheld this classification upon inquiries from a Customs field import specialist in 1982 and counsel for several domestic industries and labor organizations in 1983. Finally, the classification was most recently challenged by domestic labor unions representing workers engaged in domestic picture tube production in December, 1983, in a petition filed with the Customs Service pursuant to section 516 of the Tariff Act of 1930, 19 U.S.C. §1516, as amended, and the appeal of the Customs decision on this petition is pending at this point.

The first part of Section 516 allows domestic interested parties to petition the Customs Service for a change in the classification of imported merchandise, on the ground that the challenged classification is incorrect. After receiving extensive briefs both supporting and opposing reclassification of the picture tube-assemblies importations, the Customs Service, in an exhaustive decision issued in November 1984, denied the petition, ruling that the classification was correct on two alternative grounds: first, because the tariff provision for "assemblies having a picture tube" specifically described the importations; and, second, because the importation of equal numbers of picture tubes, control panels, and chassis perform the basic functions of a television receiver. This decision upheld longstanding Customs practice dating back to 1971, when Customs originally issued a ruling to another firm that importations of television chassis together with picture tubes were properly classified as television apparatus, and consistent Customs rulings thereafer.[7]

The 1984 Customs Service decision has been challenged by the domestic unions pursuant to the second part of section 516, which allows for de novo judicial review of Customs Service decisions denying reclassification sought in the petition by the U.S. Court of International Trade ("CIT"). A decision by the CIT may then be appealed to the U.S. Court of Appeals for the Federal Circuit ("CAFC").

The pendency of this court action suggests that, at best, H.R. 2349 is premature. Congress should at least allow this orderly review, which it prescribed, to proceed. It should not cut it short by changing the tariff provisions involved, thereby eliminating the chance for the CIT and CAFC to follow the statutory procedure set forth in section 516 and to decide whether the decision by Customs was legally correct.

D. The terms of the bill

H.R. 2349 would change the tariff classification and duty rates which are currently applicable to importations of picture tubes with television chassis and control panels. Currently, such importations are classified under item 684.96 (formerly item 685.14) at a 5% duty rate. Under H.R. 2349, the picture tubes imported simultaneously and in equal numbers with chassis and control panels would no longer be classified together under item 684.96 at 5%. Instead, the picture tube portion of the importation would have to be separately classified under item 687.35, TSUS, which provides for "Television picture tubes: Other" and carries a duty rate of 15% ad valorem. This would be accomplished under the provision of H.R. 2349 that the only time that a color picture tube can be classified under a tariff provision other than the "television picture tube" provision (item 687.35, TSUS), which carries a 15% duty rate, is when the picture tube is imported either:

a. incorporated into a complete television receiver which is fully assembled in its cabinet; or

b. as part of an unassembled kit which contains all parts necessary for assembly into a complete television receiver (including cabinet, knobs, screws, etc.).

In short, H.R. 2349 would reverse the carefully considered 1984 Customs decision and longstanding Customs practice, discussed above, regarding these importations and eliminate pending judicial review of the Customs decision. The immediate result of the bill's enactment would be that the duty on the picture tube portion of MIC's imports would be tripled from 5% to 15% ad valorem.

DISCUSSION

The enactment of H.R. 2349 would engender unintended, but nevertheless serious, economic consequences to MIC, which has relied upon the Customs decisions in maintaining its U.S. operations, and to MIC's current workers in Illinois. A tripling

[7] The February 3, 1971 letter ruling was following by a series of other rulings to the same effect. See, e.g., Customs letter rulings dated June 15, 1972, July 30, 1973, September 7, 1973, and August 1, 1977. See footnote 11, infra.

of the duty on picture tubes, the most expensive component of a television set, would place MIC at a severe competitive disadvantage in a fiercely competitive industry. Forced to assess its competitive options, MIC would be compelled to seriously consider transferring part or all of its television production capability to Mexico. Such a move would entail a considerable loss of American jobs at the Franklin Park plant and decrease purchases by MIC of domestically produced picture tubes. Paradoxically, the logic of the bill itself creates an incentive to move production offshore and import completed televisions at the lower duty rate.

Beyond this immediate adverse practical effect, there are serious legal and policy problems with H.R. 2349. Because it would reverse both longstanding Customs policy and a specific Customs ruling relied upon by particular companies, the bill creates a disincentive to foreign companies contemplating investment in U.S. production facilities. Further, the bill's increase in the duty rate for picture tube-assembly importations, long classified under a "bound" duty rate classification, would run afoul of U.S. obligations under the GATT, and potentially provoke trade retaliation against the U.S. In addition, by requiring separate tariff treatment for picture tube portions of what are, under numerous Customs rulings, unfinished television receiver assemblies, it departs from well-established Customs jurisprudence and rules developed over the part half century.

A. Adverse economic effects of enactment of H.R. 2349

The most immediate effect of passage of this legislation would be to put severe competitive strain on MIC and other companies which have relied on Customs' rulings and longstanding practice in the business planning for their U.S. manufacturing operations. As discussed above, competition within the television receiver industry is intense, with both domestic producers, such as MIC in Franklin Park, Illinois, and producers from other countries (e.g., Taiwan, Korea, Hong Kong, Japan) competing for position in a mature market. The retail price of a finished television set is an extremely important criterion in consumers' decisions regarding which set they will buy.

The television picture tube is the single most expensive component of a television, amounting to approximately one-third of the total price of all components. Department of Commerce statistics for 1984 indicate that the average F.O.B. price of imported 18"-19" color television picture tubes is $65.99.[8] Therefore, the approximate increased duty on each importation of television assemblies would be $6.60. This cost increase at the production level would translate into even higher sales prices along the distribution channel making MIC-produced sets significantly less attractive to consumers and causing injury to the American distributors and dealers of Panasonic and Quasar television sets produced by MIC, as well as to MIC itself.

This is especially true with regard to so-called "leader models," which are the basic sets without many of the extra features which raise the cost to the consumer. These sets account for 30-40 percent of sales of televisions. The industry average retail sales price is approximately $219 for leader model 13-inch color sets and $279 for leader model 19-inch sets. Any increase in cost to the manufacturer such as that outlined above is intolerable because it would inevitably be reflected in the retail sales price thereby making the set more expensive and, of course, far less competitive.

Consequently, in light of the introduction of H.R. 2349, as well as other competitive factors, MIC is currently being forced to examine very carefully its options for maintaining its competitive position. The enactment of H.R. 2349 would be a major consideration in this process.

1. *Loss of American jobs occasioned by a transfer of production facilities.*—Despite its strong desire to maintain its U.S. production, MIC's management's current thinking is that the most compelling option for MIC, in the event of the passage of H.R. 2349, would be for MIC to transfer its final assembly operation to the MIBA facility in Mexico and import complete television sets which qualify for a 5% duty rate under existing tariff provisions, as well as under H.R. 2349. It is indeed ironic that, by increasing the duty on tubes which are not incorporated into complete receivers, H.R. 2349 actually creates an incentive for domestic producers currently importing some picture tubes with assemblies to move production offshore and import completed television receivers at a 5% duty rate.

MIC estimates that a transfer of partial production could be accomplished within one year, with initial Mexican production focused on 13-inch and 19-inch color tele-

[8] Source: Television Digest, March 25, 1985, at 17, col. 2. Dividing the total dollar value of $14,928,478 by the total number of imported units (226,240) yields the average price of $65.98513967, rounded to $65.99.

vision sets. In the short term, MIC estimates that 40% of the 900 direct labor employees (360 employees) and 100 support employees, a total of 460 MIC jobs, would be eliminated. Moreover, once some complete television set production begins in Mexico, the difficulties and added costs involved in maintaining two final assembly production facilities, one in Mexico and the other in Franklin Park, would very likely lead to the eventual transfer of additional, perhaps all, television production from Franklin Park to Mexico. The net result would be the potential loss of over 1300 jobs at the Franklin Park facility.

2. *No increase in MIC's purchases of domestic color picture tubes.*—Whether or not MIC moves all or part of its operations to Mexico, it is a virtual certainty that passage of H.R. 2349 would *not* result in the purchase by MIC of more U.S.-produced picture tubes—which would, of course, be one of the major purposes of the bill. In fact, the bill's enactment would have to result in decreased purchases by MIC of domestic tubes for the reasons herein explained.

MIC currently purchases 45% of its picture tubes domestically. In comparing domestically produced tubes to the Japanese produced tubes, MIC has experienced a production line problem or "defect rate" for U.S. tubes which has consistently been 2 to 8 times higher than that of comparable Japanese tubes, as the graph attached as Appendix A illustrates. This graph serves to contrast defect rates for domestic tubes from three U.S. producers with tubes imported from MIC's parent company in Japan, which have a consistently lower defect rate.[9] Obviously, higher defect rates increase the cost of production, which is a matter of considerable concern in the highly competitive market for television sets.

As noted previously (in footnote 5), MIC has continued to purchase substantial numbers of tubes domestically, despite these defect problems. If H.R. 2349 passes, however, MIC's domestic purchases would almost certainly decrease, as production of completed receivers is transferred to Mexico. The U.S. producers' advantage in terms of physical proximity would be reduced, and MIC's incentive to "buy American" would be significantly lessened, as well.

Further, it is highly likely that the detrimental impact of a cutback or the elimination of domestic purchases by MIC would not only be limited to the domestic picture tube industry. MIC purchases other components in the United States, including wood and plastic molded cabinets, packaging materials, metal brackets, bezels insulators, staples, ink, solder, foam tape, overlays, trim parts, knobs, line cords, etc. A move of some or all of MIC's production to Mexico, wrought by the passage of H.R. 2349, would very likely alter procurement patterns for other parts as well as for picture tubes, since these parts are traditionally sourced (by all receiver manufacturers) in close proximity to the facility where the receiver is finally assembled.

In short, if the purpose behind H.R. 2349 is to preserve and even create American jobs and to stimulate the purchase of American picture tubes, passage of the bill will fail to achieve either goal. Indeed, its enactment will bring about the opposite result.

B. Legal and policy problems with H.R. 2349

Beyond the specific concerns raised by the adverse practical effects that enactment of H.R. 2349 would bring about, there are three broader policy and legal reasons for not enacting this bill. First, it simply sends the wrong signal to foreign companies considering investments in U.S. manufacturing operations. Second, the increases in tariff through the bill's reclassification of merchandise would violate the U.S. "binding" of its tariff on television receiver assembles under the GATT, potentially subjecting the United States to the need to compensate our injured trading partners or suffer retaliation by those countries. Third, the bill is not necessary to correct any "anomoly" or "loophole" in the Tariff Schedules. Indeed, since current law and practice is precisely in line with the general structure of the Tariff Schedules and Customs' implementation of them, the bill's changes would create an anomoly in the law.

1. *Disincentive to future foreign investment in U.S.*—foreign direct investment in U.S. manufacturing operations has been encouraged by the Administration and Members of Congress, and MIC and its U.S. parent company have wholeheartedly—and publicly—supported these efforts. Indeed, the MIC operation in Franklin Park has spawned other Matsushita investments in production facilities in the United States.

---

[9] The graph also shows a general reduction in the defect rate problem over the past few years. This is due, in large part, to MIC's efforts in working with each domestic producer on ways of correcting the problems experienced on the production line.

Legislation such as H.R. 2349, however, can only serve to discourage foreign companies from locating within the United States in direct contradiction of these Congressional policy statements. The message sent by enactment of such legislation would unfortunately be that, despite substantial investments made in the United States and despite reliance by the companies upon the tariff structure and Customs rulings and even Congressional statements of policy, the law and rules can at any time be changed dramatically in mid-stream causing substantial injury to the U.S.-located manufacturer which imports some of its components, subassemblies, or assemblies. Certainly, this message would not assist State governments and U.S. labor in their efforts to attract more foreign companies and thereby create more jobs in the United States.

Again, the bill's enactment would, perversely, serve to discourage the creation of more American jobs.

2. *Enactment of H.R. 2349 would increase a bound duty in contravention of U.S. obligations under the GATT.*—In addition to its adverse economic effect, enactment of H.R. 2349 would cause the United States to violate its international obligations under Article II(1)(a) of the General Agreement on Tariffs and Trade ("GATT"), which provides:

> "Each contracting party shall accord to the commerce of the other contracting parties treatment no less favourable than that provided for in the appropriate Part of this appropriate schedule annexed to this Agreement."

This provision prohibits a GATT signatory from increasing tariffs on an import beyond the duty rate to which it has bound itself either in the schedule annexed to the original GATT or by negotiation at a subsequent trade round and incorporation of the new rate into the resulting GATT Protocol. Article II prohibits not only direct duty increases, but paragraph 5 thereby prohibits increases via changes in classification.[10] Moreover, Article XXVIII sets forth procedures which a GATT party must follow to withdraw or modify a trade concession by, for example, enacting legislation (such as H.R. 2349) amending its tariff schedule, and provides for compensation to parties affected by such withdrawals or modifications.

In the 1967 Geneva Protocol to the GATT, completed at the conclusion of the Kennedy Round of Multilateral Trade Negotiations, the United States bound itself to assess a maximum duty of 5% *ad valorem* on television receivers, then classified under a predecessor category, item 685.20, TSUS. Item 685.20, TSUS, has long and consistently been construed by the Customs Service to embrace television assemblies imported together with a picture tube.[11] Continuation of the 5% ceiling was reaffirmed in the 1979 Multilateral Trade Negotiations at Tokyo and the ensuring 1979 Geneva Protocol to the GATT.[12]

---

[10] Article II(5) of the GATT provides:

If any contracting party considers that a product is not receiving from another contracting party the treatment which the first contracting party believes to have been contemplated by a concession provided for in the appropriate Schedule annexed to this Agreement, it shall bring the matter directly to the attention of the other contacting party. If the latter agrees that the treatment contemplated was that claimed by the first contracting party, *but declares that such treatment cannot be accorded because a court or other proper authority had ruled to the effect that the product involved cannot be classified under the tariff laws of such contracting party so as to permit the treatment contemplated in this Agreement,* the two contracting parties, together with any other contracting parties substantially interested, shall enter promptly into further negotiations with a view to a compensatory adjustment of the matter.

[11] In its 1984 decision which denied the unions' petition to reclassify assemblies having a picture tube, the Customs Service cited the following Customs rulings which held that merchandise which was the same as, or very similar to assemblies having a picture tube was properly classifiable either under item 685.14, TSUS, or its predecessor provision item 685.20, TSUS. The Customs Service therefore noted that its decision which denied the petition was supported by a "long and consistent history of ruling"(s) and that this history *preceded* the change of the item numbers which occurred in 1979. In fact, the rulings cited by Customs and repeated below are dated as early as 1971:

1. MFG 431.51 MA, 009050, dated February 3, 1971.
2. MFG 431.51 WR, 018022, dated June 15, 1972.
3. CLA-2:R:CV:S L, 431.51, 029088, dated July 30, 1973.
4. CLA-2:R:CV:MSP, 053119, SC, dated September 7, 1973.
5. CLA-2:R:CV:MSP, 051204 SC, dated August 1, 1977.

[12] A trade concession granted by the United States on a particular subset of articles classified under item 685.20, TSUS, i.e., monochrome television receiver assemblies having a picture tube, led the President to issue a proclamation dividing former item 685.20 into several new items, 685.11 through 685.14. Proclamation No. 4707, 44 Fed. Reg. 72,348, 72,400, 72,401 (1979), reprinted in Special Pamphlet to accompany 19 U.S.C. §§ 1–1300. This redesignation of an existing class of articles retained the original Kennedy Round concession of 5% ad valorem on color television receiver assemblies having a picture tube in the redesignated item 685.14, created by the Presidential Proclamation. Id. (*See* discussion infra at 25–28.)

The reclassification, contemplated by H.R. 2349, of color picture tubes imported in the same shipment as chassis and control panel assemblies into TSUS item 687.35, dutiable at 15% ad valorem, would improperly exceed the 5% ad valorem rate ceiling to which the United States has bound itself. Such violation would expose the United States to sanctions under the GATT, requiring the U.S. to pay compensation, in the form of trade concessions, to any aggrieved party or possibly subjecting U.S. exports to retaliation. Moreover, the bill's enactment would frustrate the United States' goal of stemming protectionist trends and expanding international trade through a new multilateral trade round. It would also complicate the resolution of various important issues involving United States-Japan trade and undermine this country's free trade posture.

3. *Enactment of H.R. 2349 would ignore well-established principles of tariff classification.*—The existing tariff provision and Customs' application of it are consistent with both the specific history of the provision and the general structure of the TSUS. There is, in short, no need to enact H.R. 2349 in order to "correct" an "anomaly" in the Tariff Schedules. The following discussion sets forth both the specific history of this item and the analysis of how this provision fits with general practice under the TSUS and Customs' implementation of it. It is, necessarily, a relatvely technical discussion, designed to explain fully how the existing law is structured with respect to this item and how that structure is consistent with the general approach taken in the Tariff Schedules.

The starting point for analysis of the TSUS treatment of this importation is General Headnote 10(h), which enacted as part of the TSUS in 1963. That Headnote provides that, "unless the context requires otherwise, a tariff description for an article covers such article, whether assembled or not assembled and whether finished or not finished." It represents the distillation of principles embodied in the actual tariff provisions of prior customs acts, some of which specifically covered articles "whether finished or not finished," others which were silent on the issue, and still others which expressly covered only articles that were finished or advanced beyond a particular stage. See Tariff Classification Study—Submitting Report, Nov. 15, 1960, pt. II, at 19.

Item 685.20, TSUS, the direct predecessor to the current provision for television receivers imported as assemblies having a picture tube, was also incorporated into the TSUS in 1963 and encompassed "television apparatus;" its superior headings, legislative history, and plain language did not restrict its scope to only assembled, or only finished units. In fact, the Tariff Classification Study indicates that item 685.20, TSUS, was derived from Paragraph 353(20) of the Tariff Act of 1930, as amended, which provided for "articles having as an essential feature an electrical element or device . . . all the foregoing and parts thereof, *finished or unfinished*, wholly or in chief value of metal, and not specifically provided for . . . television apparatus; other" (emphasis added).[13] It follows that that tariff provision encompassed television receivers whether assembled or not assembled, and whether finished or not finished.

The origin of a specific tariff item for television assemblies having a picture tube—as opposed to the previous treatment of such assemblies as incorporated in a more general tariff item—was related to trade negotiations which the President undertook pursuant to the Trade Act of 1974 ("The Trade Act"). Under section 101(a) of the Trade Act, Congress has delegated to the President broad authority: (a) to determine that any existing duties of the United States are unduly burdening or restricting the foreign trade of the States; (b) to enter into such trade agreements with foreign countries as he determines will promote the purposes of the Trade Act of 1974; and (c) to proclaim "such modification or continuance of any existing duty . . . as he determines to be required or appropriate to carry out" such trade agreements. However, section 127 of the Act (19 U.S.C. § 2137) limited the authority granted to the President in section 101(a) to modify duties. Under section 127, the President may not enter into negotiations to lower or eliminate duties regarding an article if action has been taken under 19 U.S.C. § 2253 to make that article subject

---

[13] *Tariff Classification Study, Schedule 6—Metals and Metal Products*, Nov. 15, 1960, at 281. The subclassification of articles under Paragraph 353 of the Tariff Act of 1930 (done for purposes of duty rate reductions pursuant to international agreements) also indicates that picture tubes and parts thereof were not entitled to any duty rate reduction under the supplemental provision of Paragraph 353 for parts of articles provided for in that paragraph; no such proviso applied to the television apparatus supplemental provision. Accordingly, and consistently with Customs' interpretation of the TSUS, television picture tubes are classified as such only when imported by themselves or within an importation that does not amount to an unfinished television.

to an orderly marketing agreement ("OMA") which limits the quantity of importations of that article into the U.S.

Color television receiver assemblies having a picture tube were specifically included as "incomplete color television receivers" subject to quantitative import restrictions under the Japan (and Korea and Taiwan) OMAs.[14] Therefore, during the Tokyo Round, the President did not conduct any negotiations or enter into any trade agreements with respect to the duty rates for color television receivers, either complete or incomplete (including kits and assemblies having a picture tube).

However, in the Tokyo Round, the President did agree to lower the duties for monochrome (i.e., black and white) television assemblies having a picture tube which were not covered by the OMA. Thus, in the 1979 Geneva Protocol to the GATT, the President agreed to lower the tariff rate for monochrome television receiver assemblies having a picture tube below the rates for either complete or color television receivers or color television receiver assemblies having a picture tube, all of which remained dutiable at 5% ad valorem. However, the then existing tariff provision for television apparatus (item 685.20, TSUS, which carried a duty rate of 5% ad valorem) did *not* distinguish between color and monochrome television apparatus.[15] Accordingly, in order to implement the duty reduction concession which was negotiated for monochrome television assemblies having a picture tube, while retaining the current tariff rate for color and monochrome complete television receivers and color television assemblies, it was necessary for the President to "break out" or create separate tariff provisions for monochrome and color television apparatus.

The President implemented this tariff concession in Presidential Proclamation 4707, 44 Fed. Reg. 72,348 (1979) by superseding item 685.20, TSUS, covering "television apparatus and parts thereof" and establishing, with appropriate superior headings, a separate tariff item for complete television receivers, on the one hand (item 685.11, TSUS), and a superior heading for television receiver assemblies having a picture tube, on the other. Within the latter heading, separate tariff items were to be established for monochrome (item, 685.13 TSUS) and color (item 685.14, TSUS) television receiver assemblies having a picture tube. Thus, item 685.11, TSUS, covering monochrome television receiver assemblies having a picture tube, had a reduced duty rate in 1980 of 4.7% ad valorem, and staged duty rate reductions to 3.7% ad valorem by 1987. Item 685.11, TSUS, covering both monochrome and color complete receivers, and item 685.14, TSUS, for color television receiver assemblies having a picture tube, retained the pre-Tokyo Round duty rate of 5 ad valorem in effect for item 685.20, TSUS.

In their December 1983 Petition challenging MIC's importation, the domestic labor unions averred that Congress somehow intended to preclude the classification of unassembled or unfinished televisions within item 685.20, TSUS, but cited no evidence of this supposed intention other than the existence of a tariff provision covering color television picture tubes (currently, item 687.35, TSUS) and General Headnote 10(ij), TSUS, which provides that a provision for parts of an article does not prevail over a specific provision for that part. But if the existence of a specific tariff provision for a part could be interpreted in conjunction with General Headnote 10(ij) in the way postulated by the unions, then General Headnote 10(h), TSUS, would be rendered entirely devoid of meaning, for the "context" would almost always require that unassembled or unfinished articles be broken up for tariff classification purposes, since virtually all such importations will contain at least one part that is specifically provided for. In fact, Customs has never applied General Headnote 10(ij), TSUS, to vitiate General Headnote 10(h), TSUS, in the manner suggested by the unions. Rather, when an importation is classifiable as a single tariff entity, a tariff provision describing only a portion of that entity, however specifically, does not apply.[16] On the contrary, the cases are legion where classification of an

---

[14] Under the OMA, "incomplete" color television receivers meant receivers which were "assembled to a substantially full extent."

[15] Customs Service rulings going back to 1971 have held that importations of color television assemblies having a picture tube were classifiable under item 685.20, TSUS. See rulings cited in footnote 11.

[16] *F.W. Myers & Co., Inc.* v. *United States*, 425 F.2d 781, 57 C.C.P.A. 87, (1970) (a tank railway car in unfinished condition is not classifiable under a tariff provision covering only the tank portion thereof); *United Mineral & Chemical Corp.* v. *United States*, 307 F. Supp. 347, 63 Cust. Ct. 522, (1969) (polyurethane foam bonded to pressure sensitive tape is not classifiable under the tariff provision for pressure-sensitive tape because this describes only a portion of the article); *Lineiro* v. *United States*, 37 C.C.P.C. 10 (1949) (a feed grain composed of three ingredients is classifiable as a single tariff entity, despite the fact that all three ingredients are specifically provided for in other tariff provisions).

unfinished article under the provision for the article itself was found despite the existence of specific provisions for certain of its parts. See, e.g., *Yamaha International Corp.* v. *United States*, No. 84-20, slip op. (Ct. Int'l Trade Mar. 9, 1984); *Swift Instruments, Inc.* v. *United States*, 554 F. Supp. 1235 (Ct. Int'l Trade 1982), *aff'd* 714 F.2d 161 (Fed. Cir. 1983).

In fact, and logically, Congress would manifest an intent that a tariff item encompass only finished or assembled articles not by creating tariff provisions for specific parts of the article, but by creating a separate provision specifically for the unfinished or unassembled article. See, e.g., *Hudson Shipping Co., Inc.* v. *United States*, 75 Cust. Ct. 26 (1975) (the existence of a tariff provision for model kits indicates that unassembled models are not classifiable under the provision for models); *Olympus Corp. of America* v. *United States*, 72 Cust. Ct. 176 (1974) (a specific provision for frames and mountings for compound optical microscopes precludes classification of same as unfinished compound microscopes). Thus, the fact that Congress created no separate tariff item in 1963 for "unfinished" television apparatus required, rather than prohibited, that they be classified in item 685.20, TSUS, together with finished apparatus. (See General Headnote 10(h).)

Nor has General Headnote 10(h), TSUS, been applied in a result-oriented fashion, i.e., to classify a particular importation as an unfinished article or to break it up for separate classification, depending upon which result produces more customs revenue. Tariff classification principles are to be objectively applied, with the importer often thereby achieving a lower rate of duty.[17]

H.R. 2349 would, in essence, render it virtually impossible to have an "unfinished" television, by requiring separate tariff treatment of the picture tube portion unless it is completely assembled in a cabinet or imported as part of a kit containing all parts necessary for assembly into a complete receiver. Thus, the bill—far from closing a "loophole"—disregards the history of this item and its place in well-established Customs and judicial precedent, creating instead an anomalous, result-oriented classification.

CONCLUSION

As the above discussion demonstrates, there are clear practical, policy, and legal grounds for not enacting this bill, and no benefits to be gained if it is enacted. The highly competitive nature of the color television market will surely drive U.S. producers in MIC's situation to shift a portion, or even all, of their final production operations outside of the United States, if the option of importing picture tubes as part of television assemblies is foreclosed. That ironic, unintended result would be as frustrating to MIC as it would be to the overall economic welfare. MIC has strived to improve and expand its U.S. color television manufacturing operations, but could not continue to do so if the competitive strain were intensified by passage of this legislation. The harm will be done to the economy—both directly in the television industry and indirectly as other foreign companies are discouraged from starting and expanding manufacturing here—and to U.S. workers.

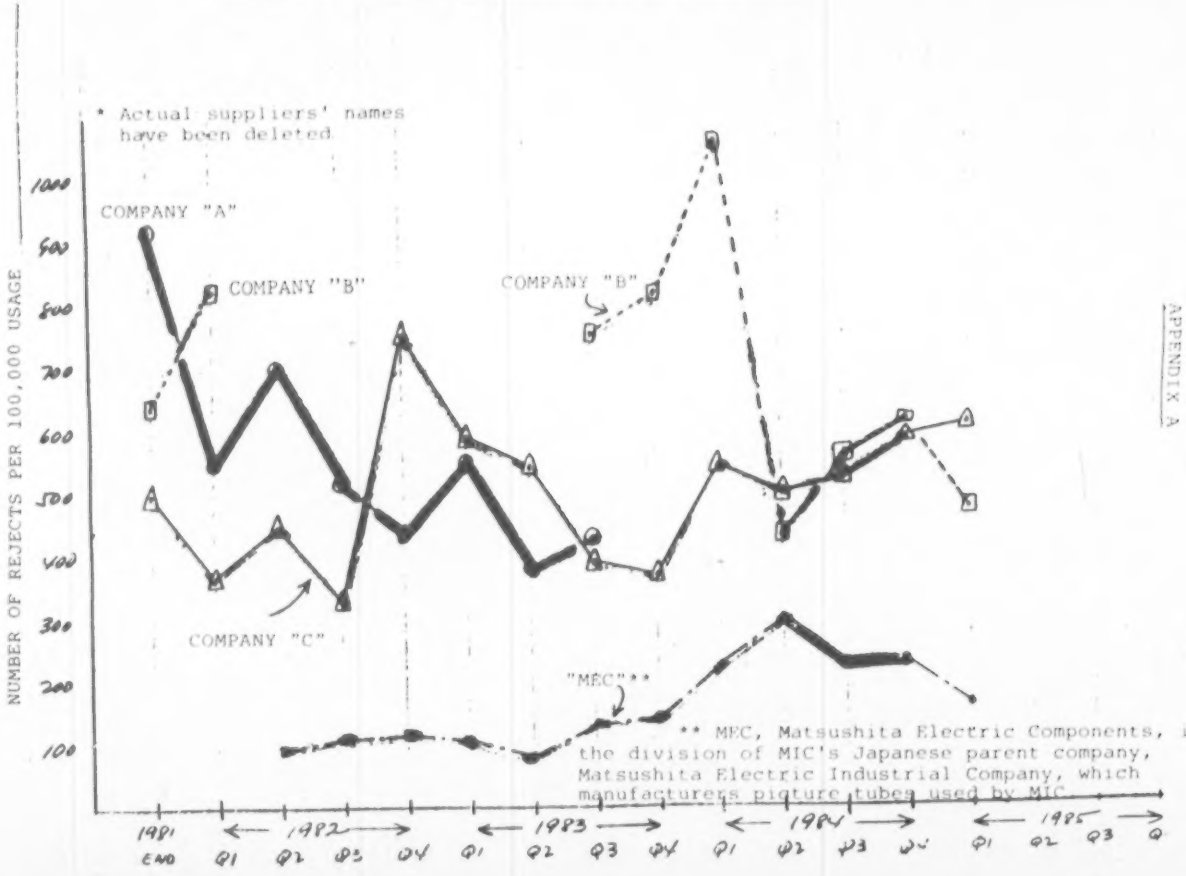
In addition, enactment of H.R. 2349 would create a United States' violation of its GATT tariff agreements, subjecting the United States to compensation requirements or retaliation by other countries. Finally, the bill is not necessary in order to "correct" an "anomaly" in the Tariff Schedules. To the contrary, passage of the bill would ignore the history of this particular tariff item and would create a provision contrary to inconsistent with the general structure of the Tariff Schedules.

For these reasons, MIC urges Congress not to enact H.R. 2349.

---

[17] See, e.g., *Miniature Fashions, Inc.* v. *United States*, 54 C.C.P.A. 11 (1966) (doctrine of entireties applied to allow lower rate of duty on cabana sets); *United States* v. *Mitsui & Co.*, 17 C.C.P.A. 67 (1929 ("anomalous" tariff provision applied to allow duty-free entry of oak flooring); *Johnson Iron Works (Ltd.)* v. *United States*, 10 Ct. Cust. App. 268, T.D. 38623 (1921) (boiler parts held not to constitute a substantially complete boiler, and entitled to duty-free entry as parts thereof); *Pacific Fast Mail* v. *United States*, 68 Cust. Ct. 41 (1972) (locomotive superstructures classified by Customs as toys, but held classifiable as unfinished model rail locomotives at a lower rate of duty); C.S.D. 83-44, 17 Cust. B. & Dec., No. 35 (Aug. 31, 1983) at 1 (subassemblies used in passenger aircraft entertainment/service system held classifiable as an entirety, duty-free, as parts of civil aircraft).

PRODUCTION LINE REJECT RATE - 19" PICTURE TUBES*



SAN FRANCISCO, CA, *June 27, 1985.*

JOSEPH K. DOWLEY, Esq.,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIR: We wish to submit comments on behalf of our client, Nintendo of America, Inc. of Redmond, Washington in opposition to the scope of H.R. 2349 which would impose a higher rate of duty on certain importations of television picture tubes.

SUMMARY OF RELIEF REQUESTED AND ARGUMENTS SUPPORTING RELIEF

A. Nintendo requests certain changes in the language of the bill

1. Nintendo requests that the scope of the bill be modified adding new language to Headnote 4 (line 13, page 2 of H.R. 2349 as introduced on May 2, 1985, attached) to read as follows:

> "4. Television picture tubes imported in combination with, or incorporated into, other articles *which constitute television apparatus within the meaning of the Tariff Schedules of the United States* are to be classified to Item 687.35 through 687.44, inclusive, unless they are"—(Proposed additional language is italicized)

In accordance with the above change, it would be advisable to delete paragraphs (ii) and (iv) under newly designated Headnote 4. These sections would be unnecessary since the CRT's which would be imported in combination with, or incorporated into, other articles would probably not constitute television apparatus. We have enclosed a marked-up version of the bill which reflects these changes.

2. Nintendo requests alternatively that a new paragraph be added to the bill under a newly designated Headnote 4 (line 13, page 2, of H.R. 2349, attached) which would be designated 4(v) and read as follows:

> "(v) Imported in combination with, or incorporated into, articles which are classifiable under Item 734.20, TSUS, as game machines."

B. Nintendo requests the above relief for the following reasons

1. We understand that H.R. 2349 was introduced to close an alleged loophole which allows for classification of television picture tubes at lower rates when the tubes are imported in conjunction with other parts of television receivers, but as distinct items in their original boxes.

2. Nintendo does not import to circumvent the duty rate on CRT's. Rather, they import video monitors which incorporate CRT's as a result of the fact that their manufacturing operations are based in Japan. Only assembly work is undertaken in the United States.

3. In fact, it is our understanding the bill was introduced to end a situation in which certain CRT's were transshipped in bond through Mexico, then shipped unassembled with other articles which constitute substantially complete television receivers. This is not similar to Nintendo importations.

4. The language of the bill is too broad and vague and does not adequately apprise Nintendo of its applicability to their importation.

a. The bill does not define television picture tubes as used in Headnote 4 (line 13, page 2, H.R. 2349, attached).

b. The bill does not define "similar articles" (line 19, page 2, H.R. 2349, attached).

5. The increase in duty rates for Nintendo may be passed on to consumers. Nintendo manfacturing operations are currently located in Japan and this is not likely to change in the near future.

BACKGROUND

The bill, H.R. 2349, proposed to reclassify certain television picture tubes which are imported in combination with, or incorporated into, other articles. Presently, television picture tubes imported in this manner are classified as television apparatus, or parts thereof, or under the appropriate tariff description for word processors, ADP terminals, and similar articles or parts thereof.

Television apparatus is currently assessed duty at the rate of 5% ad valorem if the apparatus constitutes television receivers and assemblies, or kits of television receivers. Computers and ADP's are typically assessed duty under Item 676.15 at 4.3% ad valorem, or under Item 676.30 at the rate of 4% ad valorem.

Television picture tubes imported by themselves are classified under Item 687.35 through 687.44 which impose duty at 15% ad valorem for color tubes, and 9.2% ad valorem for monochrome tubes. Therefore, television picture tubes imported as part

of incomplete kits, or as incomplete articles, would be assessed duty as a minimum of three times the present rate of duty if H.R. 2349 is passed. If the tube is monochrome, the rate would be increased to 9.2%, nearly double the present rate.

DESCRIPTION OF VIDEO MONITOR IMPORTED BY NINTENDO

Nintendo imports video monitors for use in a game called VS SYSTEM. Typically, the video monitors are imported as part of a shipment of substantially complete, unassembled video games. Nintendo also occasionally brings in complete video monitors as separate articles. An issue is currently pending with U.S. Customs as to the proper classification of the separate entries, but Nintendo contends the monitors alone are properly classifiable under Item 734.20 as a part of a video game. Item 734.20 imposes a duty rate of 4.5% ad valorem.

In Nintendo manufacturing operations, the video monitors are manufactured in Japan and incorporate a CRT as well as other electronics. Specifically, the imported video monitor includes a CRT, a deflection yoke, a mounting screw, a convergence magnet, a purity magnet, 4-pull magnets, 6-pull magnets, and various other minor parts. There is no tuner or radio frequency receiver which would allow the video monitors to be used in television receivers.

Further, video monitors are imported with a metal frame assembly and certain other wiring, circuit boards, and miscellaneous electronics.

Visually, the cathode ray tubes in the video monitors appear similar to television tubes, but the video monitors, as imported, are dedicated and specifically designed as such, and could not be used as a television set or receiver.

NINTENDO'S MANUFACTURING OPERATIONS HAVE NOT BEEN DESIGNED TO MINIMIZE DUTY AS IN RULING 553020

It is our understanding that H.R. 2349 was introduced to overturn the decision made by U.S. Customs Headquarters in a ruling dated November 15, 1984 (553020). Therefore, the ruling should be considered in determining the scope of the legislation in its final form.

In Customs Ruling 553020, the Customs Service ruled on certain importations of Matsushita Industrial Company of Franklin Park, Illinois. Matsushita imported color television picture tubes which were manufactured in Japan into Mexico. The tubes were subsequently imported into the U.S. in the same box in which they were packaged in Japan, together with the chassis and control panel.

Customs ruled that the shipments were subject to a duty rate of 5% as part of a television receiver. Although unfinished and unassembled, under Headnote 10(h) of the Tariff Schedules they were entitled to the lower duty rate for the completed article. Customs adopted this position even though certain parts were missing, e.g., a cabinet, deflection yoke, speakers, and in some instances, a degaussing coil and other parts.

The Nintendo manufacturing operations are not similar to those operations described in Ruling 553020. Rather, Nintendo does not import CRT's unless they are completely manufactured into video monitors. The video monitors imported by Nintendo consist of completely assembled monitors which include a deflection yoke, a mounting screw, convergence magnet, a purity magnet, and various other electronic parts. Moreover, the video monitor components are never shipped in separate boxes or kits as was apparently the case in Ruling 553020.

In conclusion, it is clear that Nintendo has not attempted to avoid duty payments and is simply following its required manufacturing procedures and operations in regard to its importations.

THE LANGUAGE OF THE BILL IS OVERLY BROAD AND VAGUE AND DOES NOT ADEQUATELY APPRISE NINTENDO OF ITS APPLICABILITY TO THEIR IMPORTATIONS

The language of H.R. 2349 does not adequately describe the merchandise which is within its purview and, for this reason, should be modified to exclude certain items which might inadvertently fall within its scope.

First, the bill refers to television picture tubes imported in combination with other articles. However, the bill does not define the specifications for television picture tubes. Under Customs law, certain tubes could be constituted "television" even though they are not ultimately to be used in a television. This interpretative rule is evidenced by the inclusion of "word processors" and "ADP terminals" in the language of the bill. However, it is not always possible at the time of the importation to determine whether an article is a television picture tube. It is our understanding that the Customs Service has been making these determinations on a case by case

basis; therefore, the language will create further confusion in this area due to its vagueness.

Second, the bill refers to "similar articles" in connection with word processors and ADP terminals which incorporate a television picture tube. Such language does not adequately apprise importers or the Customs Service of the exact merchandise which will be included. This language should either be made more specific, or completely removed to avoid confusion and prevent injury to importers of merchandise which the bill is not intended to affect.

THE INCREASE IN DUTY RATES TO NINTENDO WILL BE PASSED ONTO AMERICAN CONSUMERS WITHOUT BENEFIT TO DOMESTIC INDUSTRY

If it is necessary for Nintendo to pay over three times the present duty on their CRT's incorporated into video monitors, it is likely there will be an increase in cost of the video games to arcade owners, which would then be passed on to the American consumer. Therefore, this bill may act as a punitive measure against the American consumer.

Moreover, Nintendo would still be required to import the video monitors, since manufacturing operations are currently permanently located in Japan. Therefore, U.S. domestic industry would not benefit by Nintendo's increased duty rate, but, the American consumer would suffer.

PROPOSED CHANGES IN THE BILL

Nintendo requests that the scope of the bill be modified by changing the language of Headnote 4 (line 13, page 3 of H.R. 2349 as introduced on May 2, 1985, attached) to read as follows:

> "4. Television picture tubes imported in combination with, or incorporated into, other articles *which constitute television apparatus within the meaning of the Tariff Schedules of the United States* are to be classified to Item 687.35 through 687.44, inclusive, unless they are"—(Proposed language to be added is italicized)

In accordance with the above change, it would be advisable to delete paragraphs (ii) and (iv) under newly designated Headnote 4. These sections would be unnecessary since the CRT's which would be imported in combination with, or incorporated into, other articles would probably not constitute television apparatus.

Nintendo requests alternatively that a new paragraph be added to the bill under a newly designated Headnote 4 (line 13, page 2, of H.R. 2349, attached) which would be designated 4(v) and read as follows:

> "(v) Imported in combination with, or incorporated into, articles of which are classifiable under Item 734.20, TSUS, as game machines."

This would ensure that the bill would not cover arcade video monitors such as those imported by Nintendo.

Any other provision which would exclude CRT's used in video games from the bill would be acceptable. If such language is not added, Nintendo wishes to *register its opposition to the entire bill as discriminatory and vague, and as an unnecessary increase in duty rates.*

CONCLUSION

The present bill, H.R. 2349, should be modified to exclude from its purview television picture tubes which are imported in combination with, or incorporated into, other articles, which are to be manufactured into arcade video games. This type of importation is not within the intendment of H.R. 2349 which was designed to alleviate an alleged loophole which allowed individual CRT's in boxes, transshipped through Mexico, to be assessed duty at a rate for television receiver assemblies.

Further, the meaning of a "television picture tubes" is not adequately defined by the bill, nor is the term "similar articles" in reference to word processing and ADP terminals.

Finally and importantly, *the bill in its present form will not aid the domestic industry with respect to video monitors and may in fact prove harmful to the American consumer.*

Respectfully submitted,

GARY C. COOPER, *Counsel.*

Enclosure.

99TH CONGRESS
1ST SESSION

H. R. 2349

To amend the Tariff Schedules of the United States regarding the classification of television apparatus and parts thereof.

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 1985

Mr. ROSTENKOWSKI introduced the following bill; which was referred to the Committee on Ways and Means

---

A BILL

To amend the Tariff Schedules of the United States regarding the classification of television apparatus and parts thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the headnotes to part 5 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) are amended—

(1) by amending headnote 3—

(A) by striking out "685.11 through 685.19" and inserting in lieu thereof "684.92 through 685.08";

(B) by striking out "assembled," in subparagraph (a) and inserting in lieu thereof "assembled in its cabinet,"; and

(C) by amending subparagraph (b) by striking out "685.15" each place it appears therein and inserting in lieu thereof "684.98", and by striking out "685.16" and inserting in lieu thereof "685.00";

(2) by redesignating headnotes 4, 5, and 6 as headnotes 5, 6, and 7, respectively; and

(3) by inserting after headnote 3 the following new headnote:

"4. Television picture tubes imported in combination with, or incorporated into, other articles which constitute television apparatus within the meaning of the Tariff Schedules of the United States are to be classified to items 687.35 through 687.44, inclusive, unless they are—

"(i) incorporated into complete television receivers, as defined in headnote 3;

~~"(ii) incorporated into fully assembled units such as word processors, ADP terminals, or similar articles;~~

"(iii) put up in kits containing all the parts necessary for assembly into complete television receivers, as defined in headnote 3; or

~~"(iv) put up in kits containing all the parts necessary for assembly into fully assembled units such as word processors, ADP terminals, or similar articles.~~".

PHILIPS ECG,
Seneca Falls, NY, June 26 1985.

Chairman DAN ROSTENKOWSKI,
House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN ROSTENKOWSKI: Philips ECG, Inc. is a United States manufacturer of color television picture tubes. It submits these comments in favor of House Bill No. 2349 proposing the amendment of the United States Tariff Schedules regarding the classification of television apparatus and parts.

As proposed, the legislation will impose a fifteen percent (15%) duty on the importation of all color television picture tubes. Presently, as a result of modifications to the 1977 Orderly Marketing Agreement with Japan, Japanese television set manufacturers can import, through Mexico, television receiver kits which contain completed color television picture tubes at a reduced duty rate of five percent (5%). In order to prevent this flagrant circumvention of the tariffs on color television picture tubes, the Tariff Schedules must be restored to their original form and intent.

I would like to thank you for your effort in proposing this legislation and hope you are successful in its passage.

Very truly yours,

JOHN TORRE, *President.*

STATEMENT OF JACK K. SAUTER, GROUP VICE PRESIDENT, CONSUMER ELECTRONICS AND VIDEO COMPONENTS, RCA CORP.

This statement is submitted by RCA Corporation (30 Rockefeller Plaza, New York, N.Y. 10020), a pioneer United States manufacturer of television receivers, picture tubes and other electronic products. RCA is one of the few remaining U.S. manufacturers in the consumer electronics industry.

The company employs 4,400 people in Indianapolis, Indiana, 2,400 in Bloomington, Indiana and another 6,900 in Marion, Indiana, Lancaster, Pennsylvania, Scranton, Pennsylvania and Circleville, Ohio.

The color television business is intensely competitive. Twenty years ago there were dozens of U.S. manufacturers. Today the list has dwindled to three majors, Zenith, GE and RCA.

There are approximately 40 different brands in the United States marketplace today. The majority of these brands are mad outside this country. Some receive preferential duty treatment under what RCA perceives as a misinterpretation of the U.S. tariff statutes.

H.R. 2349, introduced by Congressman Rostenkowski, would remedy this situation. It was never intented in 1977 and 1980, when Orderly Marketing Agreements were entered into, first with Japan and later with Taiwan and South Korea, to change the dutiable statutes for color television picture tubes that are not part of complete color television receivers.

We think the tariff statutes clearly indicate the picture tube duty rate as prescribed by Congress was intended to be 15% and not to be reduced to 5% by a cynical misinterpretation of the term "kits."

In fact, the term "kits" is a misnomer since nearly 50 additional components are separately sourced and added to receiver chassis in the United States.

Why is the price of a television picture tube so crucial to survival on U.S. manufacturers? The picture tube is the single most costly component in the manufacture of color receivers. It amounts to 45% of the material value of a TV set and 25% of the value of the finished set.

Continuing this loophole in the tariff statutes will further erode TV set prices now actually below 1967 prices. Closing the loophole by passage of H.R. 2349 will materially aid a price-depressed television industry, already decimated by years of low price labor competition from the Far East.

RCA therefore strongly supports passage of H.R. 2349 and joins Zenith Electronics Corporation in urging you to pass this remedial legislation.

SANYO MANUFACTURING CORP.
Forrest City, AR, June 18, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN GIBBONS: Sanyo Manufacturing Corporation (SMC), located in Forrest City, Arkansas, employs over 2,000 American employees in manufacturing color television sets and microwave ovens in the United States. As an American television set manufacturer, Sanyo is writing this letter to urge that you take whatever measures that are necessary to ensure that HR 2349 is not enacted into law.

Since Sanyo acquired the former Warwick Electronics television manufacturing facility in 1976, we have substantially increased our production of television sets intended for the U.S. market, and have expanded our employment to include 2,000 workers from 500 employees when we started operations. In fact, in constructing this facility, SMC's parent company in Japan transferred production lines from Japan to Forrest City, and SMC acquired other modern equipment to allow us to produce our sets in the most efficient manner possible.

Sanyo's decision to continue to produce color television sets intended for the U.S. market at SMC, rather than importing complete sets from Japan, is based on sound economic considerations. Sanyo has rationalized its television production by continuing to produce certain component parts in Japan, while sourcing many components from vendors located in the United States. Moreover, many sub-assemblies are produced at SMC's own facility and all the substantial assembly operations and final testing necessary to produce a color television set are performed at SMC. In this manner, SMC has been able to produce a high quality television set in as efficient a manner as possible so as to compete in the U.S. industry.

Because neither SMC nor any other Sanyo-owned company manufactures television picture tubes, Sanyo is forced to purchase its tubes from unrelated tube manufacturers, who often also produce television sets in direct competition with SMC. Where SMC's competitors produce tubes in the U.S. and make these tubes available to SMC, we have purchased tubes domestically.

However, domestic tube manufacturers have chosen not to produce certain tubes in our country, and SMC, like all U.S. television producers, is either to import complete televisions in these screen sizes, or to import a television sub-assembly in which the tube is physically incorporated. To date, in order to maximize U.S. production, SMC has adopted the latter alternative. However, if HR 2349 is enacted, the duty on the tubes incorporated in the sub-assemblies will be increased to 15 percent, thereby substantially increasing SMC's costs and making it virtually impossible for SMC to compete with the larger domestic companies who import complete television sets from the world's developing nations.

If SMC is to remain a viable force in the U.S. market, in the face of the imposition of a 15 percent duty on imported tubes, SMC may have no alternative but to source comlete television sets outside of the United States or, like SMC's larger domestic competitors, to establish offshore facilities of its own in developing countries such as Mexico. SMC does not want to take these drastic measures. We have spent considerable time and effort in establishing a production facility in Forrest City, Arkansas. We have trained a force of over 2,000 loyal American workers and have developed stable sources of supply of a wide variety of television components from many small domestic companies. A decision by Congress to increase the import duty on television picture tubes to 15 percent—when the tubes imported by SMC cannot be obtained in the United States—will severely harm SMC, its workers, and its domestic suppliers.

SMC, therefore, believes that HR 2349 should not be enacted into law and urges that you actively oppose this legislation.

Sincerely,

MASAHIKO IWASA, *President.*

STATEMENT OF ROBERT H. HUEY, BURTON V. WIDES, AND JOSEPH E. SANDLER, COUNSELORS, ON BEHALF OF TOSHIBA AMERICA, INC. ("TAI")

SUMMARY

TAI assembles televisions at its plant near Nashville, Tennessee and imports, for certain of its models, unfinished assemblies with picture tubes. The bill would triple the duty rate on picture tubes included in such assemblies. TAI opposes the bill because:

1. It would not induce additional purchases of domestic picture tubes by TAI. TAI already purchases from U.S. suppliers all of its requirements for those picture tubes which are made by U.S. suppliers. The only tubes included in unfinished assemblies imported by TAI are unavailable in the U.S. TAI has entered into a joint venture with Westinghouse to produce, in the U.S., flat square tubes with the specifications required for Toshiba-brand televisions, but will have to continue to import assemblies containing other tubes which are not and will not be available in the U.S.

2. While doing nothing to encourage the purchase of domestic tubes, the bill would jeopardize U.S. jobs by creating a strong incentive to move assembly of complete televisions off shore and import them, in lieu of assembling them in the U.S. as TAI and other firms now do.

3. The bill would violate U.S. obligations under the GATT.

4. The bill does not close any "loophole" but reverses a long-standing tariff classification based on fundamental classification principles enacted by Congress and applied consistently by Customs over a 13-year period.

5. By suddenly changing this long-standing tariff practice, on which firms have relied in expanding U.S. operations, the bill sends the wrong message to foreign firms deciding whether to open or expand U.S. production facilities. It would thus discourage foreign investment.

6. By reversing a long-standing tariff practice outside the GATT process and circumventing the normal administrative and judicial process, the would undermine U.S. credibility in current trade talks with Japan aimed at opening Japanese markets to U.S. electronics and other products.

STATEMENT

These comments are submitted on behalf of Toshiba America, Inc, ("TAI"), headquartered in Wayne, New Jersey. TAI is a U.S. subsidiary of Toshiba Corporation of Japan. TAI conducts a number of substantial U.S. production operations. These include the manufacture of televisions, microwave ovens and other electronic products at a plant located in Lebanon, Tennessee, near Nashville.

TAI imports from Japan and Singapore unfinished television receivers assemblies, including picture tubes, for certain of the television models manufactured at its Tennessee plant. Such assemblies are classified under item 684.96, TSUS, dutiable at a rate of 5% ad valorem.

H.R. 2349 would amend the Tariff Schedules to triple the duty rate on picture tubes included in unfinished color television receiver assemblies, by making such picture tubes classifiable separately under item 687.35, TSUS, dutiable at a rate of 15% ad valorem.

This 300% duty increase is presumably aimed at helping the American television industry and its workers. It would, however, have precisely the opposite effect:

It would be nothing to encourage purchases from U.S. suppliers all of its requirements for those picture tube sizes and types which are available from U.S. suppliers. The only picture tubes included in unfinished television receiver assemblies imported by TAI are picture tube sizes and types not available from any U.S. manufacturers. TAI itself plans to begin production of some of these tubes in the U.S. in a joint venture with Westinghouse in New York.

While doing nothing to encourage purchases of domestic picture tubes, the bill would strongly encourage assembly of completed color televisions outside the U.S. in lieu of assembly of such units in the U.S. as TAI now does. The bill could force companies such as TAI to move their U.S. operations offshore and, in any event, would certainly discourage them from expanding existing U.S. operations. The net result could be loss of jobs for U.S. workers.

The unilateral duty increase imposed by this bill on a GATT-bound tariff item would be a violation of U.S. obligations under the GATT, exposing the U.S. to retaliatory measures against U.S. exports, and thereby further threatening the jobs of American workers. The bill does not clarify any issue or close any "loophole" but reverses a long-standing tariff treatment based on fundamental classification principles.

Moreover, by sending the message that tariff structures can be suddenly changed outside the GATT and normal administrative process, the bill would discourage foreign investment and undermine U.S. credibility in current trade talks with Japan, aimed at opening Japanese markets to U.S. electronics and other products.

BACKGROUND

Item 684.96, TSUS, derives from item 685.20, covering "television apparatus and parts thereof," dutiable at 10% ad valorem. This item was enacted as part of the

original Tariff Schedules of the U.S. (TSUS) in 1962. At the same time Congress provided a separate tariff item (687.50) for television picture tubes, dutiable at a higher rate (15%). The TSUS also included General Headnote 10(h) which provides that a tariff description for an article covers that article "whether assembled or not assembled, and whether finished or unfinished."

In the 1967 Geneva Protocol to the GATT, which was completed at the conclusion of the Kennedy Round of Multilateral Trade Negotiations (MTN), the United States agreed to assess a maximum duty rate of 5% ad valorem on television apparatus classified under TSUS item 685.20. A continuous, consistent line of U.S. Customs Service rulings, going back 14 years, have treated the basic operating portion of a receiver, when imported together with picture tube, as an unfinished television receiver subject to this lower rate.

In five rulings beginning in 1971, Customs construed the orignial tariff description for television apparatus (item 685.20) to include incomplete television receiver assemblies, sonstituting the basic operating portion, imported together with picture tubes. Customs' decisions were based on General Headnote 10(h). In 1971, Customs ruled that a television chassis imported with a picture tube packed, unmounted, in the same carton (without cabinet, speakers and other parts), was classifiable under item 685.20. (Ruling Letter MFG 431.51MA, 009050 (Feb. 3, 1971)). In 1972, Customs ruled that an identical number of television tubes and chassis imported in the same shipment, to be assembled and put in cabinets in the U.S, were classifiable under item 685.20. (Ruling Letter MFG 431.51WR, 018022 (June 15, 1972)).

Again in 1973, Customs ruled that a chassis containing the essential components of a television set imported with a picture tube in the same shipment was to be classified as an "unfinished television receiver" under item 685.20.(Ruling Letter CLA-2:R:CV:S 431.51, 029088 (July 30, 1973)). In 1977, Customs held classifiable under item 685.20 kits containing a completed chassis, plus yoke, speakers and tuners, imported in unassembled condition, together with a picture tube. (Ruling Letter CLA-2:R:CV:MSP, 051204 SC (August 1, 1977)). In 1978, Customs ruled that transistors, diodes, capacitors, resistors, integrated circuits, printed circuit boards and the like combined in such a way as to constitute the basic operating portion of a television receiver were classifiable as an unfinished television set under item 685.20. (Ruling Letter CLA-2:R:CV:MSP, 053119 SC (September 7, 1978)).

In 1977, the Special Trade Representative (STR) directed the Customs Service to monitor color televisions and assemblies on the basis of statistical categories established by STR, in order to implement Orderly Marketing Agreements. These statistical categories were all subcategories of item 685.20 and included "complete television receivers," "kits containing all parts necessary for assembly into complete receivers," and "other assemblies," i.e., less-than-complete kits. To the extent they constituted the basic operating portion of a receivers, these unfinished or incomplete assemblies were already classifiable under item 685.20 under the Customs rulings cited above going back to 1972.

In the Tokyo Round MTN, duty concessions were negotiated on monochrome assemblies. The 5% duty rate on color receivers and assemblies was left unchanged. To implement the monchrome concessions, the President established a series of new sub-categories under TSUS item 685.20 (Proclamation No. 4707 issued December 1979). These included items 685.11 and item 685.14. Item 685.11 (now item 684.92) covers "television receivers and parts thereof, having a picture tube, complete television receivers, color" and item 685.14 (now item 684.96) covers "television receivers and parts thereof, having a picture tube, assemblies (including kits containing all parts necessary for assembly into complete receivers)." Item 685.14 (now 684.96) clearly included but was not limited to "complete" kits since it included the "other (i.e., less-than-complete) assemblies" subcategory created by STR; that statistical category is now item 684.9656-63. Again, these incomplete assemblies constituting the basic operation portion of a receiver, had always been classifiable under item 685.20, the predecessor to item 685.14 (now 684.96).

On three occasions after the 1979 amendments to the TSUS, the Customs Service affirmed that the basic operating portion of a television receiver imported together with a picture tube constituted "assemblies" classifiable under item 685.14, TSUS, dutiable at the 5% rate. CLA-2:CO:R:CV:S 067477SC (Sept. 24, 1981) CLA-2:CO:R:CV:S 067670SC (1982); CLA-2:CO:R:CV:S 071185SC (June 3, 1982). And this line of authority has been recently reviewed again in exhaustive detail and upheld by the Customs Service.

In 1983, domestic labor unions representing picture tube workers challenged Customs' classification under item 685.14 of unfinished television receiver assemblies including picture tubes. The challenge was filed pursuant to Section 516 of the Tariff

Act of 1930, which enables domestic interested parties to petition Customs for a change in the classification of imported merchandise.

Customs issued an exhaustive decision, concluding that the merchandise, a television picture tube imported with chassis and customer control panel, was properly classified under item 685.14. (CLA-2CO:R:CV:V 553020 BNS (Nov. 15, 1984)). The unions are now seeking judicial review of Customs' decision in the Court of International Trade, pursuant to Section 516.

H.R. 2349 would overturn Customs' decision by amending the tariff schedules to require that picture tubes imported with an unfinished receiver assembly be classified separately under item 687.35, dutiable at a rate of 15% ad valorem. The bill would thus triple the duty rate on such picture tubes.

DISCUSSION

TAI opposes H.R. 2349 for the following reasons:

I. H.R. 2349 will not increase purchases of domestically produced U.S. color television picture tubes

The 300% duty increase which H.R. 2349 would impose on color picture tubes included in unfinished assemblies, will not induce TAI to purchase U.S.-produced tubes in place of those TAI now imports. The only picture tubes which TAI can use and which are currently sold in the U.S. are, with one exception, conventional, round picture tubes in 13", 15", 19" and 25" sizes. TAI already purchases its requirements for all of these tubes from RCA and North American Phillips (Sylvania) in the U.S.

The picture tubes imported by TAI, in unfinished television receiver assemblies, include flat square tubes in 14", 20" and 26" sizes and conventional round picture tubes in sizes less than 13". Flat square tubes (FST's) with the specifications required by TAI for Toshiba-brand televisions are unavailable in the U.S. in any screen size. Conventional round picture tubes in size of less than 13" are also unavailable in the U.S. Obviously no amount of duty increase can induce TAI to purchase in the U.S. products that are not made and sold here.

The flat square tubes required by TAI for use in its own Toshiba-brand sets have never been manufactured in the U.S. for the OEM market in any size range. RCA recently offered an "FS Tube" which is flatter and squarer than a conventional round tube but which is not as flat or square as Toshiba's "FST" and which has a completely different neck (electron gun), requires a different yoke and differs in other key specifications. Thus, TAI cannot use these new RCA tubes for manufacture of Toshiba-brant sets. It can use, however, and does purchase these RCA tubes for contract production (i.e., manufacture of television sets under other brands).

Since the flat tubes needed for Toshiba sets are not offered by any U.S. manufacturer, the only way to "source" these flat square tubes in the U.S. is to make them in the U.S. And TAI is going to do so. TAI itself, in a joint venture with Westinghouse, will commence the manufacture of these tubes in the U.S., at a plant in Horseheads, New York. Thus TAI is taking the initiative to increase its "sourcing" of tubes in the U.S. independent of any legislative "inducement." Even after production commences at the Horseheads facility, however, it still will remain necessary for TAI to import picture tubes in sizes less than 13" and 26" flat square picture tubes—none of which are produced or sold in the U.S.

Further, it is unlikely that conventional round tubes in sizes of less than 13" will ever be produced again in the U.S. in the foreseeable future. It is important that the Committee not confuse the availability of U.S. brand name television receivers in that size range with the separate question of whether those receivers will include tubes manufactured in the U.S. They will not.

General Electric Co has already announced that it will discontinue production of 10" and 13" color television sets in the U.S. by July 1985. (TV Digest, Dec. 3, 1984, p. 11.) Reportedly RCA (which already had stopped production of high-volume 13" sets and to begin obtaining them offshore in 1986 or 1987; and Zenith has announced plans to move part of its 13" color television set assembly operation to Mexico. (TV Digest), April 29, 1985, p. 9.)

In short, TAI cannot now and will not in the future be able to obtain from U.S. suppliers the sizes and types of picture tubes it now imports (and will continue to import after the Westinghouse joint venture facility commences production). H.R. 2349 will therefore not induce additional purchases of U.S.-produced picture tubes.

II. H.R. 2349 threatens U.S. jobs

While doing nothing to encourage increased sales of U.S.-produced picture tubes and increase jobs for U.S. picture tube workers, H.R. 2349 would jeopardize the jobs of American television assembly workers.

The bill would impose a 15% duty on picture tubes included in unfinished television receiver assemblies, but retain the 5% duty on picture tubes included in completed sets. The bill thereby creates a strong incentive to manufacture and import completed color sets and thus to move outside the U.S. the television assembly operations now carried out within the U.S. by TAI and other companies. The bill would thus directly jeopardize the jobs of the 400 Tennessee workers now employed in the assembly of television sets at TAI's Lebanon, Tennessee plant near Nashville, as well as the jobs of hundreds of other U.S. workers employed in television assembly operations for similarly situated firms.

To understand the impact of the bill on decisions about offshore manufacture, it is necessary to realize that the U.S. television market is extremely price-competitive. The duty increase imposed by the bill would amount to about $6–8 per unit in increased materials costs, which translates into a much higher figure at the retail price level. Thus, even a few dollars cost increase per unit incurred at the manufacturing level, as multiplied through the distribution chain, would be a significant increase in today's environment where profit margins are razor-thin and inter-brand competition intense.

The most direct impact is likely to be on foreign manufacturers' decisions as to whether they should expand U.S. operations. For example, TAI has just added a third color television assembly line at its Tennessee plant; this line, scheduled to start up in a few days, will employ 100 additional workers. There is enough room at the plant site for three more lines which would employ hundreds more workers. Decisions about this future expansion (where no capital expenditure has yet been made) would be directly impacted by this bill.

Over time the substantial cost increase imposed by this bill could well make it necessary to move existing assembly operations offshore. No business can sell a product that loses money and the cost increase this bill would impose could be more than enough to make the difference.

To the extent it encourages offshore assembly, the bill would also adversely impact the U.S. firms from which TAI now obtains componentry for the television sets assembled in Tennessee. This componentry includes the cabinets, wire harnesses and certain other components such as antennas and power cords. Cabinets are a substantial part of the cost of a television set. Taken together, these U.S.-produced components represents fully 40 percent of the materials cost of the television assembled in Tennessee.

At a time when U.S. parent firms are moving their television manufacturing outside the U.S., TAI is expanding its U.S. operations and putting more Americans to work. H.R. 2349 threatens to make such expansion economically senseless—and indeed may ultimately discourage TAI or other similarly situated firms from continuing existing U.S. assembly operations.

III. Enactment of H.R. 2349 would violate GATT

The TSUS amendment to be effected by H.R. 2349 would be a violation of U.S. obligations under the GATT. As noted above, the United States agreed in the 1967 Geneva Protocol (Kennedy Round), to a maximum duty of 5% ad valorem on television receivers classified under TSUS item 685.20. This item number has been repeatedly and consistently interpreted by Customs as including unfinished receiver assemblies having a picture tube, pursuant to General Headnote 10(h). H.R.2349 would re-define television receivers to exclude unfinished assemblies, and would subject picture tubes included in such assemblies to a 15% duty, rather than the 5% maximum duty agreed to in the Geneva Protocol.

This unilateral tariff increase by the United States would violate Article II (1)(a) of the GATT, which provides:

"Each contracting party shall accord to the commerce of the other contracting parties treatment no less favourable than that provided for in the appropriate Part of the appropriate schedule annexed to this Agreement."

This provision prohibits the United States, a GATT signatory, from establishing a duty rate on an import which would exceed the duty rate agreed to either in the schedule annexed to the GATT or negotiated at a subseqent trade round and embodied in a Protocol to the GATT. More specifically, paragraph 5 of Article II prohibits increases in such duty ceilings through changes in classification. H.R. 2349, by increasing a GATT-bound rate through a classification change, exposes the U.S.

to sanctions including compensation to parties affected by modifications to the established duty rate ceiling.

IV. H.R. 2349 would reverse a long-standing tariff treatment based on fundamental principles

This bill would not clarify any open issue or close any "loophole." To the contrary, it would reverse a longstanding tariff treatment based on consistent application by Customs of fundamental classification principles.

As noted in the background discussion above, Customs has ruled consistently, going back to 1972, that and incomplete assembly containing the basic operating portion of television receiver, imported with a picture tube, is classifiable as an "unfinished" television receiver subject to the 5% rate. These rulings were based on the fundamental principles, enacted by Congress as part of the TSUS in 1962, that while a part of an article imported separately and specifically provided for is to be classified under that specific provision (General Headnote 10(ij)), unassembled parts sufficient to constitute an "unfinished" article are to be classified as the article itself (Generl Headnote 10(h). There is absolutely no indication that Congress ever intended any different principle to apply with respect to picture tubes imported as part of an unfinished television assembly.

Neither STR in 1977, nor the President in 1979, intended to change the existing treatment of unfinished assemblies including picture tubes. These assemblies were classifiable under item 685.20 at 5% well before 1979 and have remained classifiable under the successor to item 685.20 (item 685.14, now item 684.96) at 5% after 1979.

In short, there is no "loophole" here to be filled. The current tariff treatment is based on application of fundamental classfication principles enacted by Congress and consistently applied by Customs over a 13-year period.

V. H.R. 2349 would discourage foreign investment

Toshiba and other foreign firms have made and expanded investments in U.S production facilities in recent years. In the current expansion of its Tennessee assembly plant, Toshiba has relied on the long-standing tariff treatment of unfinished assemblies including picture tubes.

H.R. 2349 would send the message—not only to foreign television manufacturers but to all foreign companies contemplating the opening or expanding of U.S. production operations—that tariff structures critical to such operation may well be drastically changed at anytime, outside the GATT process and outside the normal process of Customs and court review. This message can only serve to discourage foreign firms from investing in U.S.-production facilities. Such a result would be inconsistent with the policy, strongly espoused not only by the current administration but by all Administrations in recent years, of creating more jobs through foreign investment in U.S. manufacturing facilities.

VI. H.R. 2349 would undermine U.S. trade policy

Congress of course is the ultimate arbiter or tariff classification disputes and is empowered to establish and modify the TSUS in any way it deems fit. But to overturn settled expectations of U.S. trading partners based on years of administrative precedent, and to circumvent the administrative and judicial process for interpreting tariff items, would surely be perceived by our trading partners as "bending the rules" of fair trade, even if it were not also a clear violation of their rights under negotiated agreements. Surely the U.S. cannot afford to undermine its own credibility in this way at the very time when it seeks to enforce its own rights under agreements with Japan and other countries and to open foreign market to U.S. goods in the name of free trade.

Further, enactment of H.R. 2349 would invite a flood of petitions to Congress to increase duties on particular components of unfinished merchandise in "inverted tariff" situations (where duties on a component are higher than those on the completed product). This would have serious ramifications for both retaliation and disruption of trade negotiations.

CONCLUSION

Enactment of H.R. 2349 would not encourage sales of domestic picture tubes, would jeopardize the jobs of U.S. television assembly and other workers, would discourage foreign investment and would violate U.S. obligations under the GATT and undercut U.S. trade policy. For these reasons, H.R. 2349 should not be enacted.

STATEMENT OF JERRY K. PEARLMAN, CHAIRMAN AND PRESIDENT, ZENITH ELECTRONICS CORP.

INTRODUCTION

This statement is submitted by Zenith Electronics Corporation (1000 Milwaukee Avenue, Glenview, Illinos 60025), a pioneer United States manufacturer of television receivers, picture tubes and other electronics products.

H.R. 2349 is a much needed clarification of provisions in the Tariff Schedules relating to the fifteen percent duty Congress specifically has prescribed for imports of color picture tubes. The necessity for the legislation has arisen as a result of a controversial November 15, 1984 ruling by the United States Customs Service. (See Attachment 1.) The duty on television receivers ("assembled or unassembled or finished or not finished") is only five percent. Under the recent Customs' administrative determination, an enormous advantage can now be obtained by foreign interests if their tubes are imported into the United States with other unassembled television parts. The tubes then can be classified as unassembled or unfinished television receivers at a five percent duty rate, thereby circumventing the fifteen percent duty rate prescribed by Congress for tubes.

The Japanese duty evasion scheme

In 1983, Matsushita, a leading Japanese manufacturer, quitely developed a scheme to evade the fifteen percent duty. Matsushita began shipping color television tubes with other operating parts to the United States via Mexico. There it has other television components processed in its Mexican components plants for shipment to its United States subsidiary for final assembly into television receivers. The Japanese tubes (in their original packing cases) are shipped from Japan to the United States via Mexico in bond. They are then loaded on trucks in Mexico with other Mexican-processed television components and enter the United States as "unassembled or not finished television receivers" which are now being treated by Customs as "television receivers" under the Tariff Schedules. The duty on television receivers ("unassembled or not finished") is only five percent by virtue of a Customs' interpretation of General Headnote 10(h) of the Tariff Schedules. It provides: "Unless the context requires otherwise, a tariff description for an article covers such article [television receivers at five percent], whether assembled or not assembed and whether finished or not finished."

It may be persuasively argued that "the context requires otherwise" because Congress clearly has persistently imposed a fifteen percent duty on television tubes and has applied a five percent duty only on television receivers, Customs has been persuaded by the Japanese manufacturer to rule that the tubes, for duty purposes, are to be classified as unassembled or not finished television receivers bearing only a five percent duty when they are shipped to the United States via Mexico as a part of other television components processed in Mexico (where the tubes and other matching components are shipped together on the same truck from Mexico to the United States).

Moreover, in that ruling, Customs rejected the domestic petitioners' suggestion that the imported merchandise should not be viewed as television assemblies since said merchandise (lacking a yoke) would not qualify as a television receiver subject to a Commerce Department antidumping order. In respect to that argument, Customs stated: "[W]e reaffirm our previous decision that the principles involved in tariff classification under the Tariff Act of 1930 differ from those considerations involved in decisions under the antidumping laws; and that there is little if any relationship between the two." (See Attachment 1 at page 13.)

Loophole allows circumvention of tariff and dumping laws

These developments make H.R. 2349 extremely timely and crucial. It appears that television producers in Japan, Taiwan and Korea will be able to circumvent both the tariff classification law (which contemplates a fifteen percent duty on imported color television picture tubes) and the several antidumping orders in place on television receivers. These manufacturers can circumvent United States law by importing into the United States television picture tubes with other components in one shipment (thereby avoiding the fifteen percent picture tube tariff) and importing most but not all components in one shipment (thereby avoiding dumping duties). In fact, there have already been press accounts regarding the intention of one major Korean manufacturer to import components specifically to avoid the antidumping order on Korean sets. (See, e.g., Attachment 2a, copy of an article appearing in The Asian Wall Street Journal Weekly of November 26, 1984, and Attachments 2b, 2c, and 2d,

copies of articles appearing in The Korean Herald of May 22, 1985, May 31, 1985 and June 4, 1985.)

It is also interesting to note in Attachment 2c that a Samsung (Korea) "plant," recently opened in the United States and operating at full capacity with only 200 workers, will "manufacture 800,000 color sets this year." This illustrates that the increasing flow of kits with tubes from the Far East into sparsely staffed "assembly" operations in the United States has preserved in Korea the bulk of the jobs required for television manufacture. The so-called assembly plants in the United States are more accurately described as convenient packaging and warehousing operations capable of exploiting the December, 1984 dumping order and the tariff loophole H.R. 2349 addresses.

In short, Zenith and the domestic television industry are being placed in imminent danger of losing the benefits of both the various antidumping orders on imported television sets and the fifteen percent tariff which was intended for color picture tubes. The double-barreled effect of the Customs' ruling demonstrates that the need for H.R. 2349 is both real and urgent.

The employment of the above-described artifice begun in May, 1983 by Matsushita, Japan, is increasing dramatically. United States Department of Commerce statistics evidence the growing impact this new Japanese strategem is having on Government customs revenues and on the dwindling, price depressed United States tube industry. In 1981, kit imports with tubes under TSUSA 685.1455 were negligible at a total of 91 units having a customs value of $35,000. By 1983, kit importation had grown to 448,661 units with a customs value of $48.8 million. 1984 kit imports reached [illegible].310 units having a customs value of $58.6 million. During the first three months of 1985, kit imports grew to 169,087 as compared to 115,623 for the three-month period in 1984. Virtually all of these kit imports are via Mexico. (See Attachment 3.)

Earlier Japanese efforts to circumvent the fifteen percent tariff failed

In 1982 the Committee of Examiners of the Foreign Trade Zone Board, Department of Commerce, responded to a Japanese petition to establish a foreign trade zone adjacent to a United States television assembly plant of Sanyo Manufacturing Company. The plant in question, located in Forest City, Arkansas, is a wholly-owned subsidiary of Sanyo Electric Co., Ltd., another leading television manufacturer and exporter of television receivers in Japan. The Committee made an in-depth study of the effect a granting of the petition would have on the capital- and labor-intensive United States tube industry. The Committee, after reviewing at length submissions of Japanese and United States interests, concluded that the petition could only be granted on condition that all imports of tubes to the trade zone must continue to bear the fifteen percent duty Congress had prescribed. The Committee expressly stated that the tubes should not be permitted to come in at the five percent rate for television receivers that trade zone status of the television assembly plant normally would confer.

The Committee traced the history of the fifteen percent duty rate and how it had been excluded from the General System of Preferences and from duty reduction consideration in the Tokyo Round of Multilateral Trade Negotiations (because of the import sensitive and frail condition of the capital-intensive United States tube industry under assault for years by protracted dumping of television receivers from the closed Japanese market). The Board approved the Committee of Examiners report and the approval of the Secretary of Commerce was published in the Federal Register on October 8, 1982 (47 Fed. Reg. 44593). A copy of the Committee's in-depth study of the need to prevent any circumvention of the fifteen percent duty rate on tubes is attached for the convenience of the Trade Subcommittee. (See Attachment 4.)

Having failed to circumvent the fifteen percent duty by means of a foreign trade zone approach in 1982, Japanese interests have now invented another loophole approach that not only avoids the fifteen percent duty but provides a means of evading dumping orders in effect against Japanese, Korean and Taiwanese manufacturers as well. H.R. 2349 effectively closes that loophole.

H.R. 2349 critical to survival of United States industry

Zenith has been at the forefront of color tube technology since the introduction of color television. It has one of the most efficient and advanced color tube manufacturing plants in the world in Melrose Park, Illinois employing over 2,500 highly trained personnel backed by a costly research and development effort. This facility as well as the Zenith color television manufacturing facility in Springfield, Missouri have been and will increasingly be seriously impacted by the growing imports of Japanese and Korean kits and tubes pouring through the artificial loophole that

H.R. 2349 would close. In 1981-82, Quasar Electronics of Franklin Park, Illinois, a subsidairy of Matsushita Electric Industrial Co., Ltd. of Japan, was buying about 800,000 color television picture tubes (worth $73 million) per year from United States suppliers. This volume was divided into about 500,000 19-inch and 300,000 25-inch tubes. North American Philips with its tube plants in Ottawa, Ohio and Senaca Falls, New York, was Quasar's principal supplier. Zenith was Quasar's second source but nevertheless sold that company about 75,000 19-inch and about 57,000 25-inch tubes annually.

In May, 1983 Matsushita began bringing 19-inch tubes into the United States from Japan via its Mexican facility under its duty evasion scheme. At the five percent duty rate Quasar no longer needed Zenith or any other United States tube manufacturer. As a result, in second half 1983 and 1984 Zenith lost about 100,000 units of 19-inch color television tube business with Quasar alone. This represented about $7 million of sales for our company. It also represented the production day equivalent of about 13,000 man days of work. We understand that North American Philips lost business the same way. In April, 1985 Zenith received another cancellation for 100,000 tubes from an assembler of Japanese imported kits. The tubes will now come from Japan. We make about 12,000 tubes a day at Melrose Park, so this cancellation alone effectively lays off the plant for another eight working days.

The United States Department of Commerce statistics reveal the severe impact kit importation with a color picture tube at five percent duty has had on Zenith and the United States tube industry. Zenith's loss of Quasar business alone and the extraordinary increase in kit importation is directly attributable to the fifteen percent duty avoidance. Our sales of 25-inch product to Quasar has not suffered thus far because Quasar has not imported kits with 25-inch tubes from Mexico and so would pay the fifteen percent duty on any tubes imported directly from Japan. However, we understand this will change in about a year when Quasar converts from 25-inch to 26-inch product which will be shipped in kit form from Mexico. Nor have we thus far suffered a loss of tube business from Sanyo. We began selling significant quantities to Sanyo in 1984 and hope to double sales during 1985. However, we cannot expect to hold this and other similar business unless the loophole exploited by Matsushita and Quasar is eliminated.

As stated in the Report of the Examiners Committee, Foreign Trade Zone Board (Attachment 4 at pages 12-13), the picture tube is the single most costly component to manufacture of a color television receiver. It accounts for up to forty-five percent of the material value of a receiver and about twenty-five percent of the value of a finished television set. Manufacture requires a high level of capital investment and large volume to hold down unit cost. Nevertheless, tube production in the United States has been steadily declining in terms of the percentage of U.S. manufactured tubes in finished color television receivers sold in the United States. The industry is very price competitive with world-wide over production capacity. The average price today for a 19-inch tube is less than $70 or more than $10 below the $80 average price that prevailed in 1981. In the 25-inch category, the selling price is now at about $102 for an $8 decline from the $110 average that prevailed only three years ago. Television Digest, issue dated December 10, 1984, estimates that at a five percent duty rate, prices could drop another $6.90 per tube. (See Attachment 5.) Such a drop would further erode television receiver prices that are now actually below the 1967 prices reported in the Consumer Price Index. United States tube producers, who depend on non-captive sales to other television receiver manufacturers, will then most certainly be unable to keep plant capacity utilization at efficiency levels critical to successful operation.

In considering this problem, it also is important to note that for Quasar's 500,000 19-inch tubes alone, the Federal Government receives approximately $1,800,000 in customs duties at the five percent rate. If these same tubes were produced and sold by United States companies, the business would generate about $6.5 million in corporate Federal taxes and $1.6 million of wages ($900,000 in Federal income taxes and $700,000 in FICA taxes) for 65,000 equivalent man days—a total increase of $6.3 million in Federal taxes.

If the latest Japanese artifice to evade the fifteen percent duty on tubes Congress imposed is allowed to persist, it will be widely exploited by all Far East manufacturers, many of whom are greatly expanding capacity already well beyond current demands. (See Attachment 2d.) The manufacture of color tubes in the United States may not survive the assault, and the already frail, price-depressed television industry, weakened and decimated by years of dumping from the Far East, will be destroyed or its remnants driven off shore.

H.R. 2349 can in no fair way be characterized as a duty increase. It merely would eliminate a strained administrative interpretation of the present Tariff Schedules

that reduces the long-standing fifteen percent duty imposed by Congress to five percent; provides a means to evade dumping orders; threatens unfairly the continued existence of an industry born and nurtured here at great cost and the jobs of thousands of trained workers; and deprives the United States Government of many tens of millions of dollars in much needed revenue.

SUMMARY

H.R. 2349 would merely close a loophole in the Tariff Schedules created by a recent highly controversial administrative ruling that permits foreign manufacturers to import color picture tubes at a five percent duty rate rather than at the fifteen percent duty imposed on tubes by Congress in the Tariff Schedules. The Bill also would preclude use of a method for the evasion of dumping orders now possible under the recent Customs ruling. (Dumping orders are now in place with respect to television imports from Japan, Korea, and Taiwan.)

The Bill does not in any sense raise the tariff on anything. It merely prevents a radical lowering of the tube duty contrary to the Congressional will. It prevents an evasion of dumping orders by use of an artful technical strategem which, if allowed to continue, may cause the demise of the dwindling United States tube industry and its companion television set industry as well which has suffered so severely from predatory dumping of Far East-sourced products for the last seventeen years.

Zenith employs over 2,500 highly trained workers at its Melrose Park, Illinois tube manufacturing facility and 2,700 workers at its Springfield, Missouri color television manufacturing facility. The passage of H.R. 2349 is vital to the preservation of those jobs and will rightly restore tens of millions of dollars of duty revenue to the United States Government.

[Attachments have been retained in the committee files.]

H.R. 2351

To suspend for 3 years the duty on 2,2'-oxamido bis-[ethyl 3-(3,5-di-tert-butyl-4-hydroxyphenyl)propionate]

Department of Commerce

This is in response to your request for the views of this Department on H.R. 2351, a bill "To suspend the duty on 2,2'-oxamido bis-[ethyl 3-(3,5-di-tert-butyl-4-hydroxyphenyl)propionate]."

The Department of Commerce has no objection to enactment of H.R. 2351.

H.R. 2351 would suspend the column 1 (MFN) duty on the specified chemical for a period of three years. The column 2 (statutory) rate of duty would be unaffected by this legislation. This chemical currently enters the United States under Tariff Schedules of the United States (TSUS) item 405.34 with a MFN duty of 13.5 percent ad valorem. No concessions were made on this item during the Tokyo Round of trade negotiations. TSUS 405.34 is not eligible for duty-free treatment under the U.S. Generalized System of Preferences.

There is no domestic production of the subject chemical at the present time. Duty-free entry of this material could improve the competitive position of the U.S. chemical industry which uses this chemical as an anti-oxident/metal deactivator to prevent polymer breakdown.

The revenue loss from this bill cannot be accurately determined inasmuch as it is one product in a basket TSUS category. Enactment of H.R. 2351 would have no impact on the revenues on administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Statement of Matthew T. McGrath, Counsel, Uniroyal Chemical Division, Uniroyal, Inc.

SUMMARY

(1) The bill would suspend for three years the duty on 2,2'-oxamido bis-[ethyl 3-(3,5-di-tert-butyl-4-hydroxypheny) propionate), a combination antioxidant and metal deactivator for polymers used in high performance applications.

(2) The unique combination properties of the chemical are not available in any domestically produced equivalent, and are required by polymeric processors demanding a specified degree of chemical stabalization.

(3) Suspension of an unnecessary duty would help make the product available in a cost efficient manner to U.S. purchasers, who cannot obtain the chemical from any U.S. supplier. The current tariff rate is extremely high and was established at a time when there was no domestic production or importation of the product.

(4) No U.S. production would be adversely affected, and if market development expands sufficiently, future captial expansion is expected to occur at domestic facilities.

STATEMENT

This statement is submitted on behalf of Uniroyal Chemical Division of Uniroyal, Inc., in response to the invitation for comments of the Subcommittee on Trade, Committee on Ways and Means (Release No. 8, May 16, 1985), in connection with certain tariff and trade bills. Uniroyal, a diversified producer of chemical and other products, in the United States and abroad, supports the passage and enactment of H.R. 2351, introduced by Congressman Rowland of Connecticut, to suspend for three years the import duty on 2,2'-oxamido bis-[ethyl 3-(3,5 di-tert-butyl-4-hydroxyphenyl) propionate] (referred to herein as "oxamido"). This duty suspension would benefit

U.S. consumers of a product not available from U.S. producers, by eliminating a substantial and unnecessary tariff.

Oxamido is used by industrial processors and fabricators as a high performance antioxidant and metal deactivator in various polymers (for example, in polypropylene, polyethylene, and polystryrene). It is a high molecular weight, phenolic oxamide antioxidant which retards oxidative degradation of polymeric substances during poplymerization processing, and in end use applications. Its unique properties of both antioxidant and metal deactivation are not offered by any domestically produced chemical.

While various types of antioxidants are commonly used in polymer applications, this chemical meets product specifications for particular customers in specific applications not served by any substitute antioxidant produced in the United States. These requirements of the consumer, which may be a resin manufacturer or polymeric end use processor, call for a specific degree of stabilization in the chemical process in which this antioxidant is used. Furthermore, the unique chemical structure simultaneously provides antioxidant protection and reduces metal catalyzed degradation. Among the uses for which these combined characteristics are particularly useful are wire and cable insulation, pipe, and injection molded parts for automobiles and appliances. It is also useful as a processing stabilizer that provides improved color stability for applications such as film sheet and blow molded bottles.

This chemical has never been produced in the United States in other than experimental quantities for research purposes. Uniroyal purchases imported oxamido because it does not possess the capacity to manufacture this chemical in the United States, without diverting presently fully-utilized production capacity and facilities from other chemicals which are being domestically produced. Uniroyal has purchased quantities of the chemical from suppliers in Canada, France and Italy, and, of course, must incur the substantial duty which is assessed on the product.

Currently, this product is classified as a cyclic organic chemical under item 405.34 of the Tariff Schedules of the United States, dutiable at a rate of the 13.5% ad valorem. Furthermore, this rate is not scheduled for staged reductions, as are duty rates for other chemicals in the same schedule. Since there was no known U.S. production of this chemicnl at the time of the Tokyo Round of tariff negotiations under the General Agreement on Tariffs and Trades, it was classified in a basket category with a comparatively high duty rate. Now that the product is available from an import source, and there continues to be no known U.S. capacity for production of the chemical, the present high duty rate does not provide protection for any domestic facility or workers. In fact, such a high rate of duty has an unnecessary inflationary impact on sales of the chemicals in the United States.

A temporary duty suspension will permit Uniroyal to supply this chemical to its customers in a cost-efficient manner which does not result in any net loss of U.S. jobs, since all available domestic capacity is currently fully utilized. In fact, if development of the U.S. market for chemical expands sufficiently, Uniroyal anticipates that any future capital expansion of its production facilities would occur in the United States, rather than at Uniroyal facilities in Canada or elsewhere. Furthermore, a duty suspension will not adversely affect any U.S. products, since Uniroyal is aware of no similar combined antioxidant and metal deactivator made in the United States to the same specifications to meet the same customer requirements.

Finally, this chemical has received approval of the Food and Drug Administration for use in food contact articles (such as wrapping materials). The FDA has conducted an extended study of this compound and its constituents and concluded that the chemical is safe for use in polystyrene, rubber-modified polystyrene, and olefin polymers, and as a component in adhesive formulations. Also, there is no environmental problem posed in its manufacture, and the Environmental Protection Agency has approved Uniroyal's Premanufacturing notification required under the Toxic Substance Control Act.

Therefore, since this duty suspension would reduce the cost of a unique chemical not available from domestic sources, Uniroyal supports the passage of H.R. 2351.

H.R. 2352

To amend the Tariff Schedules of the United States to suspend temporarily the duty on derivatives of N-[4-(2-hydroxy-3-phenoxypropoxy)phenyl]acetamide

U.S. International Trade Commission

Section-by-section analysis

If enacted, section 1 of the proposed legislation would add new item 907.11 to the Appendix to the Tariff Schedules of the United States (TSUS) in order to suspend the column 1 rate of duty [1] on derivatives of N-[4-(2-hydroxy-3-phenoxypropoxy)phenyl]acetamide until December 31, 1988. The column 2 rate of duty [2] would not be changed. Under section 2, the duty suspension would be effective with respect to articles entered, or withdrawn from warehouse, for consumption, on or after the fifteenth day after the date of its enactment.

Background

Description and uses.—The subject product is a fortifier for epoxy resins that is capable of improving the strength and elasticity of the resin while avoiding brittleness. The product results from the reaction of an aromatic amide with a mono- or diepoxide, with optional further treatment with an isocyanate or nitrile. Thus, 1 mole of 4-hydroxy-acetanilide and 2 moles of phenyl glycidyl ether can be heated together for 30 minutes at 180° C to produce the fortifier. Analysis of a typical fortifier showed the presence of at least 12 chemical compounds in measurable amounts. The product and process are patented in the United States by employees of Canadian Patents and Development, Ltd., in association with the National Research Council of Canada. The derivatives of N-[4-(2-hydroxy-3-phenoxypropoxy)phenyl]acetamide are described in figure 1.

Purpose. [3]—The subject product is not currently produced in the United States. Uniroyal, Inc., has available capacity to manufacture this product at its facility in Elmira, Ontario. The epoxy resins and articles of plastics that are capable of being improved by the fortifier are produced in the United States. Import duties on the fortifier increase the cost of the fortifier to domestic epoxy resin manufacturers. It is asserted that the suspension of import duties on derivatives of the subject product would allow domestic producers of epoxy resins to compete more effectively with foreign suppliers of raw materials for the spacecraft, aircraft, electronic, and machine tool industries.

---

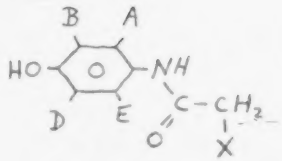
[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries excpet those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

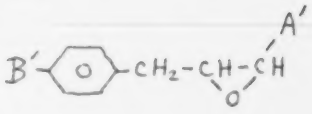
[3] Information obtained from Uniroyal and other industry sources.

Figure 1

1 mole



0.8 mole



at 100° - 180° C for 1-2 hours

at least 12 chemical components in measurable amounts.

A, B, D, and E are selected from hydrogen, hydroxyl, halogen, methyl, ethyl, propyl, butyl, halomethyl, haloethyl, halopropyl, halobutyl, amino, acylanilinomethyl, acylanilinoethyl, acylanilinopropyl, and acylanilinobutyl moieties.

X is selected from hydrogen, methyl, ethyl, propyl, phenyl, and acetyl moieties.

A' is selected from hydrogen, halogen, methyl, ethyl, propyl, butyl, halomethyl, haloethyl, halopropyl, halobutyl, phenyl, halophenyl, phenoxymethyl, phenoxyethyl, phenoxypropyl, and phenoxybutyl moieties.

B' is selected from hydrogen and p-epoxycyclopentyl moieties.

Source: U.S. Patent No. 4,480,082, issued Oct. 30, 1984.

Comparison with present law

Tariff treatment under the TSUS.—The fortifier for epoxy resins is classified in TSUS item 407.16, covering other mixtures in whole or in part of any of the products provided for in subpart 1B of Schedule 4 of the TSUS (benzenoid industrial organic chemicals). As shown in the table below, the column 1 duty rate is 1.7 cents per pound plus 13.6 percent ad valorem, but not less than the highest rate applicable to any component material; the column 2 rate of duty is 7 cents per pound plus 43.5 percent ad valorem, but not less than the highest rate applicable to any component material. No preferential least developed developing countries (LDDC) rate of duty [4] is provided.

TSUSA item No	Description	Pre-MTN col. 1 rate of duty [1]	Col. 2 rate of duty
	Mixtures in whole or in part of any of the products provided for in this subpart:		
	Other:		
407.16	Other	1.7¢/lb + 13.6% ad val., but not less than the highest rate applicable to any component material. (20% AVE).	7¢/lb + 43.5% ad val., but not less than the highest rate applicable to any component material.

[1] Rate not modified in the Tokyo round of the Multilateral Trade Negotiations.

The column 1 rate of duty is not currently scheduled for reductions. The fortifier is eligible for duty-free entry under the Caribbean Basin Economic Recovery Act (CBERA).[5] This mixture is also eligible for duty-free entry under the Generalized System of Preferences (GSP),[6] unless it is imported from Venezuela.

If the active ingredient of the fortifier were imported in a form that is 95 percent or more pure, the active ingredient would be classified under TSUS item 405.34, covering amides of cyclic organic chemical products and their derivatives in any physicial form having a benzenoid, quinoid, or modified benzenoid structure, not provided for in subparts 1A or 1C, schedule 4, of the TSUS. The column 1 rate of duty of 13.5 percent ad valoreum under this tariff item would not apply to the mixture since it is lower than the column 1 rate of duty for TSUS item 407.16. The column 2 rate of duty under item 405.34, 7 cents per pound plus 58 percent ad valorem, would apply to the mixture if it were the highest rate applicable to any component material.

Tariff treatment under the proposed Harmonized System (HS).—The fortifier is classified in Chapter 38 of the proposed HS in the provisions covering antioxidizing preparation and other compound stabilizers for rubber or plastics containing any aromatic or modified aromatic antioxidant of other stabilizer. The tabulation shows the classification for this mixture and the proposed U.S. rates of duty under the HS:[7]

---

[4] The preferential rates of duty in the LDDG column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[5] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[6] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[7] The Harmonized System is intended to serve as the single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections which, along with the interpretative rules and the legal notes to the chaptes and sections, form the legal text of the system.

Heading No.	Article description	Col. 1 (General)	Col. 1
3812	Prepared rubber accelerators; compound plasticizers for rubber or plastics, not elsewhere specified or included; antioxidizing preparations and other compound stabilizers for rubber or plastics:		
	Antioxidizing preparations and other compound stabilizers for rubber or plastics:		
3812.30.10	Containing any aromatic or modified aromatic antioxidant or other stabilizer.	15%	60%

Source: USTR, Trade Policy Staff Committee, Conversion of the Tariff Schedules of the United States into the Nomenclature Structure of the Harmonized System, Revised, Showing Administrative Changes Approved by the Trade Policy Staff Committee. (September 1984) p. 38-6.

Structure of the domestic industry

N-[4-12(2-Hydroxy-3-phenoxypropoxy)phenyl[acetamide and its derivatives are not commercially produced in the United States. This mixture was invented by employees of Canadian Patents and Development, Ltd., and patented by them under European Patent No. 103,968, issued March 28, 1984; U.S. Patent 4,480,082, issued October 30, 1984; and other foreign patents. No plants are currently scheduled to produce this mixture in the United States.

U.S. imports

Separate import data for the fortifier are not available, since this mixture is one of many articles classified as "other benzenoid chemical mixtures". Since this product was patented in 1984, it is unlikely that there were any imports in commercial quantities. The only known source of this mixture is Canada. No imports were supplied by column 2 sources. The importer of this chemical is Uniroyal, Inc.; the firm has projected a growing U.S. market for this product.

U.S. exports and apparent U.S. consumption

Because there is no domestic production of the fortifier, exports of this mixture are believed to have been nonexistent during 1980–84. Apparent U.S. consumption is estimated to be approximately equal to the level of imports.

Effect on revenue

If the import quantities and price levels projected for 1985–87 are realized, the potential annual loss of customs revenue would amount to approximately $38,000 in 1985, $94,000 in 1986, and $157,000 in 1987. The quantity of imports of the fortifier is expected to increase significantly because of the improved strength and reduced brittleness that it imparts to epoxy resins.

Technical comments

The words, "Mixtures containing" should be inserted at the beginning of the article description, since TSUS item 407.16 is a residual classification under a superior heading covering mixtures. Thus, the first letter of "Derivatives" should be changed to a lower case "d". It is the understanding of the Commission staff that the amended article description would cover the mixtures intended to be covered by the sponsor, based on the type of production process being employed.

The comma after "warehouse" in section 2 should be deleted.

DEPARTMENT OF COMMERCE

This letter is in response to your request for the views of this Department on H.R. 2352, a bill "To amend the Tariff Schedules of the United States to suspend temporarily the duty on derivatives of N-[4-(2-hydroxy-3-phenoxypropoxy)phenyl]acetamide."

The Department of Commerce has no objection to enactment of H.R. 2352. We suggest, however, that the description of the proposed item be amended to read "Mixtures containing derivatives of N-[4-(2-hydroxy-3-phenoxypropoxy)phenyl]acetamide."

H.R. 2352 would suspend the column 1 (MFN) duty on derivatives of the specified chemical through December 31, 1988. The column 2 (statutory) rate of duty would be unaffected by this legislation. This chemical currently enters the United States under Tariff Schedules of the United States (TSUS) item 407.16 with a MFN rate of duty of 1.7 cents per pound plus 13.6 percent ad valorem, but not less than the highest rate applicable to any component material. No concessions were made on this

item during the Tokyo Round of trade negotiations. Imports under TSUS item 407.16 are eligible for duty-free treatment under the U.S. Generalized System of Preferences; however, imports of this product from Venezuela are not eligible for the duty-free treatment.

There is no domestic production of this fortifier at the present time. Duty-free entry of this material could improve the competitive position of the domestic aerospace industry. The material is used as a fortifier for improved epoxy resins which have potential use in high technology applications.

H.R. 2352, as currently written, does not properly describe the material. It is our understanding that this fortifier is a mixture of materials containing about 80 percent N-[4-(2-hydroxy-3-phenoxypropoxy)phenyl]acetamide, plus several related coproducts and derivatives of the chemicals. We have suggested an alternative description above.

Revenue loss from enactment of H.R. 2352 cannot be accurately determined inasmuch as TSUS item 407.16 is a basket category. We understand that only experimental quantities have been imported to date but do not have an estimate of future imports. Based on current imports, revenue losses would be negligible. The bill would have no effect on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

STATEMENT OF MATTHEW T. MCGRATH, COUNSEL UNIROYAL CHEMICAL DIVISION, UNIROYAL, INC.

SUMMARY

In support of H.R. 2352

(1) The bill would suspend for three years the duty on derivatives of N-[4-(2-hydroxy-3-phenoxypropoxy)phenyl]acetamide, a chemical fortifier of epoxy resins.

(2) The chemical has unique properties of adding greatly increased ductility in metal substitutes while not increasing elongation of epoxy. The product is patented and not available from any domestic manufacturer.

(3) A duty suspension would help make the chemical available at a lower cost to U.S. manufacturers in aerospace and other industries using high performance epoxy substitutes for metal.

(4) The suspension would lower an unnecessary economic barrier to the fortifiers use, while not adversely affecting any U.S. concern, since no domestic facilities are available for its production.

STATEMENT

This statement is submitted on behalf of Uniroyal Chemical Division of Uniroyal, Inc., in response to the invitation for comments of the Subcommittee on Trade, Committee on Ways and Means (Release No. 8, of May 16, 1985) concerning certain tariff and trade bills. Uniroyal, a diversified producer of chemical and other products, in the United States and abroad, supports the passage and enactment of H.R. 2352, introduced by Congressman Rowland of Connecticut, to suspend for three years the import duty on a chemical epoxy fortifier designated as Derivatives of N-[4-(2-hydroxy-3-phenoxypropoxy)phenyl]acetamide. A duty suspension would make available to U.S. consumers at a more reasonable price this highly specialized chemical with unique plastic-strengthening capabilities, which is not available from any domestic source.

This chemical is a fortifier of epoxy resins which improves tensile strength (up to 70 percent) and stiffness (up to 60 percent in the resins. It is a unique product, recently introduced in the United States by Uniroyal, which is expected to be very useful in the high-performance epoxy markets, where manufacturers require lower-weight, higher-strength replacements for metal materials. The important characteristics and uses include, for example: improved damage tolerance and adhesive properties in aerospace applications; extended life in "disposable" tooling; and strengthening in encapsulated circuit boards for certain electrical applications. The chief advantage in the use of this epoxy fortifier is that it provides greatly increased strength and ductility in metal substitutes, while not increasing elongation of the epoxy. This characteristic is particularly important in meeting tightened damage tolerance specifications in aircraft, as set forth in regulations of the Federal Aviation Administration.

Uniroyal has developed the fortifier pursuant to an agreement with the National Research Council of Canada, which originated the technology and holds a U.S. Patent, issued on October 30, 1984. At present, no facility exists in the United States for the production of the fortifier. Uniroyal plans to manufacture the product of its Elmira, Ontario facility, where available capacity exists, and import the product for its customers in the United States. The fortifier is not available from any U.S. producer, and Uniroyal does not expect it to be imported from any other source. While production of the fortifier is not, itself, labor intensive, its initial marketing success holds the potential for contributing to new job creation or expansion in the aerospace and related industries which would benefit most from the product. Therefore, the relatively high and unnecessary tariff on this chemical acts as an impediment to the potentional contribution of the epoxy fortifier to the domestic economy.

This chemical is classified for tariff purposes under item 407.1610 of the Tariff Schedules of the United States, as an unspecified mixture, in whole or in part of any of the benzenoid chemicals described in Part 1 of Schedule 4 of the Tariff Schedules. The duty rate is 1.7¢ per pound, plus 13.6 ad valorem, but not less than the highest rate applicable to any component material. Due to the extremely high value of this product, at least during its initial market introduction, this duty rate will increase the cost to the U.S. purchaser substantially, tending to act as an economic disincentive to its use. At the time the current duty rate was established, during the Tokyo Round negotiations of the General Agreement on Tariffs and Trade, there was no U.S. production or importation of this chemical. However, with foreign production of the fortifier and no known domestically produced equivalent, there is no need to impose such a high protective tariff.

A temporary duty suspension will benefit the marketing efforts for the epoxy fortifier, particularly in this early stage of its production, and will permit access by U.S. purchasers to a highly effective means of enhancing epoxy resin performance characteristics. The only source of the chemical is expected to be Canada. There are no known environmental hazards posed by its production. A pre-manufacturing certification has been submitted to the Environmental Protection Agency as required under the Toxic Substances Control Act. There is no waste stream from production of this reaction product, and therefore no waste hazard posed by its manufacture. Finally, because of the unavailability of U.S. facilities for its production and the very low labor requirements (approximately one man-year, on average), a duty suspension would have no adverse effect on U.S. employment while possibly contributing to employment in aerospace and related industries.

Uniroyal offers one technical suggestion which may improve the tariff nomenclature describing the fortifier chemical, and insure that the duty suspension is properly administered. The language of the present bill describing the chemical is somewhat indefinite, due to the fact that, as a new product it has no chemical abstract name, and since it is a reaction product, it is difficult to describe as a single compound. The U.S. Department of Commerce has suggested that the application of the duty suspension to this epoxy fortifier, using the description in H.R. 2352, may be ambiguous or overly broad. Therefore, Uniroyal offers the following more precise chemical definition of the fortifier covered by this bill.

Mixture containing N-[4-(2-hydroxy-3-phenoxypropoxy) phenyl] acetamide and its adducts with [phenoxymethyl] oxirane.

Uniroyal believes that this description will closely approximate the Chemical Abstract name which will eventually be assigned to the chemical. Therefore, Uniroyal urges that H.R. 2352 be amended to replace the chemical description therein with the description set forth above.

Uniroyal urges the Subcommittee and the full Committee to report favorably on H.R. 2352, with the proposed amendment noted above.

H.R. 2354

To amend the Tariff Schedules of the United States with respect to motor fuel, motor fuel blending stock, and naphthas, and for other purposes

H.R. 2396

To change the tariff treatment with respect to naphtha and motor fuel blending stocks

See letters from American Petroleum Institute, Charles J. DiBona; and Ashland Oil, Inc., William E. Perrine. See statements of CPM Energy Corp., Barrett E. Kidner; and Valley Green International Trading Corp., Philip D. Carter. All appear under H.R. 1566.

U.S. INTERNATIONAL TRADE COMMISSION

H.R. 2354

Section-by-section analysis

Section 1 of the proposed legislation sets out eight Congressional findings concerning problems in the petroleum refining industry in this country, and in the Tariff Schedules of the United States (TSUS) in the duty rates applicable to imported motor fuel products. Section 2 would amend part 10 of schedule 4 of the TSUS by deleting item 475.25 and inserting in lieu thereof items 475.26 and 475.27 (tariff-rate quota provisions for gasoline and motor fuel blending stock) and item 475.29 (motor fuel other than gasoline). These new tariff items would assign column 1 rates of duty [1] on motor fuel and motor fuel blending stocks ranging from 10.8 percent to 21.6 percent ad valorem. In addition, existing TSUS item 475.35, which covers certain naphthas,[2] would be amended to exclude those to be used as motor fuel blending stock. Conforming changes would be made in headnote 2 to part 10 and a new paragraph added, to define motor fuel blending stock. Finally, section 3 would make the Act effective after the 15th day following enactment.

Background

Description and uses.—"Motor fuel blending stock" is a term that can be used to refer to a variety of materials derived from petroleum, shale oil, or natural gas, which can be further processed into specification-grade motor fuel. It can also be used to describe materials that can be physically blended with other materials to make motor gasoline.

Motor fuel blending stocks could be used as a fuel in internal combustion or other engines but are outside the Ameircan Society for Testing Materials (ASTM) octane range. Generally, these products are mixed or blended with other chemicals, such as tetraethyl lead (TEL), to obtain a higher octane product that meets the ASTM octane specifications for motor fuel.

Purpose.—The legislation was introduced to increase duty rates on motor fuel and motor fuel blending stocks, which are currently dutied on entry into the United States at 1.25¢ per gallon. Its sponsor states that as a result of the growing U.S.

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFH) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The item now covers "Naphthas derived from petroleum, shale oil, or both (except motor fuel)".

dependence on imports of refined petroleum products, especially gasoline, the U.S. refining industry has experienced plant closings and decreased capacity utilization.[3] Also, he cites refineries coming onstream in the world's energy rich nations, with the result that the U.S. refining industry is expected to meet more competition from low-priced petroleum product imports. the proposed duty rate change is intended to take into account the increased value of gasoline and the economic and energy security needs of the United States; the sponsor alsc considered recommendations of the United States International Trade Commission (Commission).[4]

Prior investigations

The House Committee on Ways and Means and the Senate Committee on Finance requested the Commission to conduct a study, after the conference committee on what was ultimately enacted as the Trade and Tariff Act of 1984 failed to reach agreement on the issue, as to the possible tariff reclassification of catalytic naphtha and motor fuel blending stocks/unfinished gasoline. From late 1983 through July 1984, a number of bills were introduced in Congress pertaining to the reclassification of these products. H.R. 4232 and S. 2479 proposed a duty rate of 0.25 cent per gallon on imported catalytic naphtha, a component used in the production of finished gasoline. While these bills were being considered by Congress, two additional bills pertaining to the reclassification of unfinished gasoline or motor fuel blending stocks, H.R. 5455 and S. 2900, were introduced to create a new tariff item for these products with a duty rate of 1.25 cents per gallon, the same rate as on finished motor fuels.

Since catalytic naphtha and motor fuel blending stocks are used in the production of gasoline, the Administration proposed a single alternative in May 1984 that was designed to satisfy the intent of both sets of bills. Due to the unusual complexity of the products involved, the conferees determined that prior to further congressional action on the issue, the Commission should be asked to examine the desirability of reclassification and its possible ramifications. In addition, the conferees requested that the Commission provide import data for ethyl and methyl alcohol and to recommend changes that would improve the tariff nomenclature for the product group. The Commission released its report in April 1985 on investigation No. 332-203, containing the recommendations noted by the sponsor of the instant legislation.[5]

Comparison with present law

Tariff treatment under the TSUS.—Imports of naphthas (whether "straight" or "catalytic") and other motor fuel blending stocks are currently classifiable in part 1, part 2, or part 10 of schedule 4 of the TSUS. Depending on its characteristics, a particular blending stock may be classified—

(1) in part 1, item 407.16, as a mixture, in whole or in part of benzenoid chemicals, such mixture resulting directly from the distillaton/cracking/reforming process and to which no other chemicals have been addded after such process; catalytic naphthas are included in this category;

(2) in part 10, item 475.35, as a mixture, not in whole or in part of benzenoid chemicals, such mixture resulting directly from the distillaton/cracking/reforming process and to which no other chemicals are addded after such process; or

(3) in part 2, item 432.35, as a mixture such as (1) or (2) above, to which are subsequently added lead alkyls, ethyl alcohol or other nonbenzenoid organic chemicals, and/or inorganic components.

If any of these products meet the ASTM criteria for motor fuel, they are then classified in TSUS item 475.25. The classification of these products is discussed in greater detail in the Commission's report in investigation No. 332-203, cited earlier in this memorandum.

The tabulation on the following page shows the rates of duty for these items in 1985.

---

[3] Congressional Record of May 6, 1985, page E1953.

[4] Possible Effects of and Recommendations Concerning the Proposed Tariff Reclassification of Catalytic Naphtha and Other Motor Fuel Blending Stocks, Report to the Committee on Ways and Means and on Finance in Inv. No. 332-203, Pub. No. 1686, April 1985.

[5] See footnote 4. The Commission has also issed its findings in inv. No. 701-TA-239 (preliminary) and 731-TA-248 (Preliminary), Certain Ethyl Alcohol from Brazil, April 1985 (USITC Pub. No. 1678) [reasonable indication of the threat of material injury to U.S. industry]. The Department of Commerce is scheduled to issue final dumping margins and/or subsidy findings by August 5, 1985.

TSUS item No.	Description [1]	Col. 1 rate of duty	Col. 2 rate of duty
475.25	Motor fuel	1.25¢/gal.	2.5¢/gal.
475.35	Naphthas derived from petroleum, shale oil, natural gas, or combinations thereof (except motor fuel) [and except naphthas of TSUS item 407.16].	0.25¢/gal.	0.5¢/gal

[1] The expressions in brackets were added here for explanatory purposes. Otherwise, the descriptions are shown as they appear in the TSUS. "Motor fuel" is defined in headnote 2(b) as "any product derived primarily from petroleum, shale, or natural gas, whether or not containing additives, which is chiefly used as a fuel in internal-combustion or other engines."

Tariff treatment under the proposed Harmonized System (HS).—According to the September 1984 draft converted tariff schedule issued by the Trade Policy Staff Committee (TPSC), naphthas and naphtha-based products used as motor fuel blending stocks would be covered by HS subheadings 2710.00.15 (motor fuel) and 2710.00.18 (motor fuel blending stocks, including catalytic and other naphthas, with or without additives, and ethyl alcohol/gasoline mixtures). Naphtha for chemical conversion is covered by HS 2710.00.25. The HS attaches to its description of motor fuel (2710.00.15) by means of legal note 3 to chapter 27 a "principal use" restriction, similar to "chief use" in the TSUS; the applicable provisions are shown in the tabulation on the following page.

Heading No.	Article description	Col. 1 (general)	Col. 2
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 7 percent or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations:		
2710.00.15	Motor fuel	52.5¢/barrel	$1.05/barrel
2710.00.18	Motor fuel blending stocks	52.5¢/barrel	$1.05/barrel
2710.00.25	Naphthas (except motor fuel or motor fuel blending stock).	10.5¢/barrel	21¢/barrel

Structure of the domestic industry

The United States relies on the major international petroleum companies and the independent domestic refiners to supply its need for crude petroleum and petroleum products. According to the 1977 Census of Manufacturers, there were 349 U.S. refineries in operation in that year; however, as of January 1, 1983, the number of operating refineries had fallen to 225, with a total capacity to process 16.2 million barrels of crude petroleum per day.[6] As of January 1, 1985, there were 191 operating refineries in the United States, with a crude petroleum capacity of 15.9 million barrels per day.[7] The decrease in the number of operating refineries since 1977 is believed to have resulted from a combination of factors, including decreased domestic demand for petroleum products, market shifts, increased transportation costs, consolidation of refinery operations, the end of the Federal entitlements program for small refineries, and the decontrol of crude petroleum prices in 1981. Of the total refineries in operation, 131 are operated by independent refiners and account for 30 percent of U.S. refining capacity.[8]

Employment in the petroleum refining industry decreased from 108,300 workers in 1979 to 100,600 in 1983.[9] The number of production workers declined from 72,800 in 1979 to 64,700 in 1983.[10]

The major States producing petroleum products are Texas, California, and Louisiana. As of January 1, 1985, these States accounted for about 41 percent of the total number of U.S. refineries and 57 percent of the total refining capacity.[11]

[6] "Annual Refining Report," Oil and Gas Journal, Mar. 21, 1983, p. 130.
[7] "Annual Refining Report," Oil and Gas Journal, Mar. 18, 1985, p. 123.
[8] Submission by the Independent Refiners Coalition for investigation No. 332-203.
[9] U.S. Department of Commerce, Bureau of Industrial Economics, U.S. Industrial Outlook, 1984, January 1984, p. 8-5.
[10] *Ibid.*
[11] "Annual Refining Report," Oil and Gas Journal, Mar. 18, 1985, p. 123.

Domestic production

Between 1977–1985, approximately 158 refineries ceased operations. The typical refinery that closed had a capacity of less than 50,000 barrels per day, with no cracking or other major crude petroleum upgrading facilities. Many of these refineries were built under the Government program of support for small refiners in the 1970's.[12] During the period 1981–83, the refineries remaining open were primarily sophisticated units that operated at about 68–70 percent of capacity compared with an average of 85 percent in 1979.[13] During the first half of 1984, the refinery capacity utilization rate averaged about 76 percent as a result of higher gross inputs of crude petroleum to refineries and lower total refining capacity.[14] Another factor contributing to the decrease in U.S. production of refined products and the subsequent decline in capacity utilizationis an increase in offshore refinery operations. Currently, the world crude petroleum market is witnessing a situation of oversupply as well as excess refinery capacity. Some of the excess production made in these offshore refinery facilities enters the U.S. market, which is already faced with decreased demand for these refined products.

The following tabulation shows U.S. production of selected petroleum products (in thousands of barrels per day), 1973–84:[15]

Year	Motor gasoline	Distillate fuel oil	Residual fuel oil	Liquefied petroleum gases [1]	Other [2]
1973	6,535	2,822	971	1,600	3,693
1977	7,033	3,278	1,754	1,566	3,912
1979	6,852	3,153	1,687	1,556	4,153
1980	6,506	2,662	1,580	1,535	3,956
1981	6,405	2,613	1,321	1,571	3,739
1982	6,338	2,606	1,070	1,528	3,453
1983	6,340	2,456	852	1,642	3,460
1984	6,468	2,688	891	1,702	3,656

[1] Includes ethane, propane, normal butane, and isobutane.

[2] Includes pentanes, other hydrocarbons, alcohols, unfinsihed oils, gasoline blending components, and all finsihed petroleum products, except finsihed motor gasoline, distillate fuel oil, residual fuel oil, and liquefied petroleum gases.

U.S. imports

The United States is a net importer of petroleum products, primarily from Venezuela and refineries in the Caribbean nations. As a result of increased prices, the value of imports of all petroleum products increased from $11.4 billion in 1980 to $18.6 billion in 1984 (table 1). U.S. imports of petroleum products could increase further as additional refinery capacity becomes available in the OPEC nations as well as other conventional-energy-rich nations. As of January 1, 1985, the OPEC nations had the capacity to refine 4.8 million barrels per day of crude petroleum and are expected to have a refining capacity of 7.7 million barrels per day by 1987.[16] These nations, with abundant supplies of crude petroleum and natural gas, have a competitive advantage in the production of energy-intensive products, such as petroleum products and petrochemicals, because of relatively assured low-cost supplies of raw materials. At a time when exports of crude petroleum have peaked, these nations have developed or are developing industries for refined and manufactured products to utilize natural resource advantages and to diversify their exports as a means to further their economic development.

[12] Resource Systems Institute, OPEC Downstream Project, "The Changing Structure of World Refining Industry: Implications for U.S. Energy Security," presented to the U.S. Department of Energy, Jan. 23, 1985, p. 23.

[13] U.S. Department of Energy, *Petroleum Supply Monthly*, March 1982, p. 6 and January 1983, p. 6.

[14] U.S. Department of Energy *Petroleum Supply Monthly*, June 1984, p. xiii.

[15] U.S. Department of Energy, *Monthly Energy Review*, October 1984, p. 45, 47, 49, 51, and 52.

[16] "Worldwide Report," Oil and Gas Journal, Dec. 31, 1984, p. 74–75; and Resource Systems Institute, OPEC Downstream Report, op cit., p. 38.

TABLE 1.—PETROLEUM PRODUCTS: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

[In thousands of dollars]

Source	1980	1981	1982	1983	1984
Venezuela	3,202,196	3,078,736	2,995,228	2,890,272	3,482,349
Algeria	633,030	1,059,741	1,351,209	1,655,822	2,535,309
Netherlands Antilles	2,428,061	2,503,093	2,051,526	2,180,452	1,960,574
Canada	588,264	966,541	799,031	1,187,966	1,339,722
Netherlands	71,519	507,191	544,600	774,398	1,068,668
Bahamas	1,262,283	1,146,145	941,492	1,547,388	1,007,010
Mexico	85,705	292,863	235,754	475,919	791,227
Brazil	29,036	123,771	377,158	531,820	716,035
All other	3,055,417	3,512,049	3,767,409	3,739,945	5,734,477
Total	11,355,510	13,190,129	13,063,408	14,983,983	18,635,372

Source: Compiled from official statistics of the U.S. Department of Commerce.

Residual fuel oils accounted for about 38 percent of the total value of U.S. imports of petroleum products in 1984. U.S. residual fuel oil imports decreased in quantity from 282 million barrels in 1980 to 254 million barrels in 1984; the value decreased only slightly from $7.2 billion in 1980 to $7.1 billion in 1984, primarily because of rising prices. The major sources of U.S. imports of residual fuel oils in 1984 were the North Antilles (except the Bahamas) and Venezuela, together accounting for 41 percent (table 2).

TABLE 2.—RESIDUAL FUEL: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 barrels)				
Netherlands Antilles	63,794	62,409	57,588	62,974	54,110
Venezuela	106,485	85,570	78,859	57,310	48,780
Algeria	11,536	16,849	28,857	21,827	24,003
Bahamas	29,788	17,252	15,681	25,903	16,749
Peru	385	1,505	4,270	9,525	12,035
Brazil	1,019	3,884	7,408	9,456	10,902
Canada	12,680	13,045	9,797	11,136	10,391
Indonesia	7,755	11,483	3,966	5,496	7,300
All other	48,567	45,727	59,314	59,943	70,162
Total	282,010	257,724	265,739	263,568	254,431
	Value (1,000 dollars)				
Netherlands Antilles	1,455,971	1,820,185	1,482,590	1,628,008	1,495,709
Venezuela	2,708,417	2,561,622	2,135,988	1,465,819	1,355,761
Algeria	356,080	563,715	919,461	639,192	721,727
Bahamas	874,713	596,294	443,193	764,164	491,457
Peru	9,959	44,015	118,873	248,227	323,130
Brazil	29,031	117,862	218,747	255,708	312,150
Canada	275,148	361,061	265,308	303,483	294,680
Indonesia	228,076	363,382	123,816	152,820	205,598
All other	1,289,379	1,305,666	1,587,099	1,603,870	1,923,903
Total	7,226,774	7,733,802	7,295,075	7,061,292	7,124,116
	Unit value (per barrel)				
Netherlands Antilles	$22.82	$29.17	$25.74	$25.85	$27.64
Venezuela	25.43	29.94	27.09	25.58	27.79
Algeria	30.87	33.46	31.86	29.28	30.07
Bahamas	29.36	34.56	28.26	29.50	29.34
Peru	25.89	29.25	27.84	26.06	26.85

TABLE 2.—RESIDUAL FUEL: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84—Continued

Source	1980	1981	1982	1983	1984
Brazil	28.48	30.34	29.53	27.04	28.63
Canada	21.70	27.68	27.08	27.25	28.36
Indonesia	29.41	31.65	31.22	27.81	28.16
All other	26.55	28.55	26.76	26.76	27.42
Average	25.63	30.01	27.45	26.79	28.00

Source: Compiled from official statistics of the U.S. Department of Commerce.

U.S. imports of distillate fuel oils increased irregularly from 15 million barrels, valued at $552 million in 1980 to 61 million barrels, valued at $2.0 billion, in 1983 and 103 million barrels, valued at $3.3 billion, in 1984 (table 3). Venezuela, Mexico, and Canada supplied about 54 percent of the total 1984 U.S. imports of distillate fuel oils.

U.S. imports of motor fuel increased irregularly from 19 million barrels in 1980 to 102 million barrels in 1984; during the same period the value of these imports increased from $716 million to $3.2 billion (table 4). In 1983 the major sources for U.S. imports of motor fuel were the Netherlands, accounting for 20 percent, and Venezuela, accounting for 16 percent; in 1984 this situation was reversed, with the Netherlands accounting for 14 percent and Venezuela, 22 percent.

TABLE 3.—DISTILLATE FUEL: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 barrels)				
Venezuela	326	6,013	6,809	13,246	24,953
Mexico	201	1,281	600	4,349	16,800
Canada	512	5,490	4,140	12,776	13,851
Netherlands	192	4,005	823	4,404	10,839
Bahamas	1,167	7,081	8,579	12,572	8,425
Algeria	253	2,164	454	2,769	7,062
USSR	0	2,062	0	1,729	5,292
Netherlands Antilles	7,234	3,142	3,572	2,659	3,299
All other	5,437	7,125	5,712	6,737	12,945
Total	15,322	38,363	30,689	61,240	103,466
	Value (1,000 dollars)				
Venezuela	10,041	230,403	240,524	426,918	808,595
Mexico	5,634	39,383	14,936	138,277	481,069
Canada	10,976	214,258	157,025	420,225	461,203
Netherlands	8,437	152,700	32,340	146,207	364,106
Bahamas	40,528	272,993	303,559	401,011	270,643
Algeria	8,783	80,678	17,843	85,587	229,677
USSR	.....	80,706	.....	55,968	168,040
Netherlands Antilles	257,206	114,209	116,071	85,919	103,746
All other	180,387	269,920	197,530	204,581	400,685
Total	521,992	1,455,250	1,079,829	1,964,692	3,287,763
	Unit value (per barrel)				
Venezuela	$30.77	$38.32	$35.32	$32.23	$32.40
Mexico	28.01	30.76	24.90	31.80	28.64
Canada	21.44	39.03	37.93	32.89	33.30
Netherlands	43.94	38.13	39.28	33.20	33.59
Bahamas	34.73	38.55	35.38	31.90	32.12
Algeria	34.71	37.28	39.34	30.91	32.52
USSR	.....	39.14	.....	32.38	31.75
Netherlands Antilles	35.56	36.35	32.50	32.32	31.45

TABLE 3.—DISTILLATE FUEL: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84—Continued

Source	1980	1981	1982	1983	1984
All other	33.18	37.88	34.58	30.37	30.95
Average	34.07	37.93	35.19	32.08	31.78

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 4.—MOTOR FUELS: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 barrels)				
Venezuela	4	0	1,584	12,201	22,497
Netherlands	591	6,092	11,375	15,381	14,700
Brazil	0	0	3,868	7,590	12,554
Canada	3,439	3,780	3,833	7,904	9,744
China Mainland	2,559	6,767	9,559	10,371	10,687
Italy	1,153	3,113	1,643	3,071	6,556
United Kingdom	(1)	26	476	2,223	4,517
Romania	0	2,312	1,958	6,385	4,533
All other	11,208	10,786	13,324	13,592	16,012
Total	18,953	32,876	47,620	78,719	101,799
	Value (1,000 dollars)				
Venezuela	100		61,198	427,551	720,866
Netherlands	24,575	242,094	411,547	511,119	466,398
Brazil			142,745	253,202	377,448
Canada	129,582	153,485	153,673	277,089	321,953
China Mainland	81,809	258,744	336,884	308,895	309,909
Italy	53,075	121,305	59,402	101,245	197,574
United Kingdom	(1)	1,052	..,172	76,182	141,374
Romania		90,241	69,846	207,709	136,346
All other	426,713	430,554	496,978	466,367	505,581
Total	715,855	1,297,476	1,749,445	2,629,359	3,177,45.
	Unit value (per barrel)				
Venezuela	$25.02		$38.62	$35.04	$32.04
Netherlands	41.02	39.74	36.18	33.23	31.73
Brazil			36.90	33.36	30.07
Canada	37.68	40.50	40.09	35.06	33.04
China Mainland	31.97	38.24	35.24	29.78	29.00
Italy	46.04	38.97	36.15	32.97	30.13
United Kingdom	113.00	40.37	36.10	34.27	31.30
Romania		39.02	35.68	32.53	30.08
All other	38.07	39.92	37.30	34.31	31.58
Average	37.77	39.47	36.74	33.40	31.21

[1] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Exports.—The exportation of petroleum products was restricted until 1982 and may be restricted at any time by the President under section 103 of the Energy Policy and Conservation Act (Public Law 94-163 of December 22, 1975). The President acts through the Secretary of Commerce to impose such restrictions as are nec-

essary to be consistent with the national interest. The Secretary enforces this restriction by requiring validated export licenses.[17]

Exports of petroleum products during 1980–84 are shown in table 5. The value of U.S. exports increased by 265 percent during 1980–82. The reasons for this apparent dramatic increase includes an increase in the unit value of petroleum product exports and the 1982 relaxation of export restrictions. However, U.S. exports in 1984 declined by 25 percent to a value of $3.6 billion, because of the strength of the U.S. dollar in relation to other currencies and an oversupply of products on the world market.

TABLE 5.—PETROLEUM PRODUCTS: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

[In thousands of dollars]

Market	1980	1981	1982	1983	1984
Japan	75,770	151,692	483,606	489,930	539,412
Canada	107,431	215,384	317,299	428,585	512,421
Mexico	218,609	210,206	962,901	196,868	270,028
Netherlands Antilles	4,940	16,876	75,657	147,947	258,656
United Kingdom	50,084	36,732	126,652	85,555	218,200
China Taiwan	39,194	85,244	44,676	113,314	157,229
Spain					148,312
Korean Republic	17,328	87,875	277,132	132,516	147,816
All other	799,477	1,426,571	2,503,971	2,173,975	1,325,122
Total	1,312,833	2,230,580	4,791,893	3,768,688	3,577,194

Source: Compiled from official statistics of the U.S. Department of Commerce.

Tables 6–8 show the increase in volume of exports through 1982 of three major petroleum products—namely, distillate fuel oil, motor fuels, and residual fuel oil, which together accounted for nearly 78 percent of petroleum product exports in 1982. U.S. exports of residual fuels increased from 6 million barrels, valued at $163 million, in 1980 to 67 million barrels, valued at $1.8 billion, in 1984 (table 6).

Exports of distillate fuel oils increased from 387,000 barrels in 1980 to 1.2 million barrels in 1981; by 1982, distillate fuel oil exports increased to more than 28.2 million barrels. In 1984, exports declined to 19.3 million barrels (table 7).

Exports of motor fuels, however, decreased in volume from 1.3 million barrels in 1980 to 1.0 million barrels in 1981. After export restrictions were relaxed, export volume climbed to over 13.9 million barrels in 1982, but then declined to 3.1 million barrels in 1984 because of the increased value of the U.S. dollar and declining demand for such fuels (table 8).

TABLE 6.—RESIDUAL FUEL: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 barrels)				
Japan	10	1,887	5,645	10,694	13,580
United Kingdom	0	247	3,346	1,645	7,725
Netherlands Antilles	100	0	2,812	4,056	7,210
China Taiwan	551	2,220	958	3,640	4,140
Korean Republic	0	2,433	8,298	3,524	3,922
Italy	0	2,733	3,276	2,581	3,610
Spain	0	0	0	0	3,366
Singapore	1,940	4,699	6,181	13,740	3,140
All other	3,475	18,607	44,002	22,335	20,276
Total	6,076	32,826	74,518	62,216	66,969

[17] The rules governing these exports are set forth in section 377.6, "Petroleum and Petroleum Products," of the Export Administration Regulations of the U.S. Department of Commerce (15 C.F.R. § 377.6).

TABLE 6.—RESIDUAL FUEL: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84—Continued

Market	1980	1981	1982	1983	1984
	Value (1,000 dollars)				
Japan	376	54,364	162,029	276,692	369,215
United Kingdom		5,568	81,724	42,312	206,219
Netherlands Antilles	1,732		69,436	96,113	193,576
China Taiwan	14,760	66,325	26,254	97,370	112,367
Korean Republic		65,444	214,714	93,456	104,129
Italy		90,567	83,182	63,773	92,590
Spain					89,295
Singapore	58,390	137,286	167,024	344,549	83,215
All other	88,368	488,504	1,112,088	578,040	551,943
Total	163,627	908,059	1,916,451	1,592,305	1,802,551
	Unit value (per barrel)				
Japan	$37.47	$28.81	$28.71	$25.87	$27.19
United Kingdom		22.50	24.43	25.72	26.70
Netherlands Antilles	17.25		24.69	23.69	26.85
China Taiwan	26.80	29.88	27.41	26.75	27.14
Korean Republic		26.90	25.87	26.52	26.55
Italy		33.14	25.39	24.71	25.65
Spain					26.53
Singapore	30.09	29.22	27.02	25.08	26.50
All other	25.43	26.25	25.27	25.88	27.22
Average	26.93	27.66	25.72	25.59	26.92

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 7.—DISTILLATE FUEL: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 barrels)				
Canada	2	5	4	1,389	5,417
Japan	20	403	5,458	4,955	3,321
Netherlands Antilles	0	0	119	1,265	1,492
Panama	262	134	739	883	1,424
Spain	0	0	0	0	1,233
China	0	1	0	0	920
Bahamas	(1)	(1)	51	528	917
Ecuador	0	(1)	617	1,254	804
All other	102	672	21,258	16,144	3,799
Total	387	1,216	28,245	26,418	19,328
	Value (1,000 dollars)				
Canada	74	181	141	46,822	169,965
Japan	820	16,412	205,079	159,314	106,343
Netherlands Antilles			3,398	38,519	46,401
Panama	5,692	5,406	27,287	28,189	46,079
Spain					37,906
China		29			28,747
Bahamas	8	14	1,937	16,063	28,217
Ecuador		2	25,002	41,984	26,329
All other	3,179	28,341	819,557	550,439	121,759
Total	9,773	50,384	1,082,400	881,330	611,746

TABLE 7.—DISTILLATE FUEL: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84—Continued

Market	1980	1981	1982	1983	1984
	Unit value (per barrel)				
Canada	$30.05	$36.71	$34.77	$33.71	$31.38
Japan	40.38	40.58	37.57	32.15	32.02
Netherlands Antilles			28.67	30.46	31.10
Panama	21.70	40.37	36.91	31.93	32.35
Spain					30.74
China		25.99			31.25
Bahamas	24.76	36.58	38.34	30.45	30.77
Ecuador		35.00	40.55	33.48	32.73
All other	31.22	42.15	38.55	34.10	32.05
Average	25.25	41.43	38.32	33.36	31.65

[1] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 8.—MOTOR FUELS: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 barrels)				
Canada	13	190	128	1,846	885
New Zealand	69	0	(1)	0	443
Ecuador	0	0	173	1,098	462
Northern Antilles	0	0	(1)	275	291
Chile	0	(1)	(1)	(1)	202
Panama	0	(1)	30	71	237
Australia	78	0	(1)	438	269
French Polynesian Islands	116	84	111	0	114
All other	1,049	752	13,494	708	141
Total	1,324	1,026	13,938	4,436	3,104
	Value (1,000 dollars)				
Canada	341	7,766	5,138	64,857	27,549
New Zealand	3,362		9		14,224
Ecuador			7,225	37,748	13,062
Northern Antilles			1	11,607	10,173
Chile		1	9	1	8,799
Panama		1	1,098	2,444	8,375
Australia	3,754		2	13,990	8,121
French Polynesian Islands	5,070	4,292	5,670		3,704
All other	13,043	29,824	522,899	26,724	5,976
Total	25,569	41,883	542,052	157,370	99,983
	Unit Value (per barrel)				
Canada	$26.62	$40.84	$40.06	$35.13	$31.14
New Zealand	48.72		44.36		32.10
Ecuador			41.71	34.39	28.26
Northern Antilles			28.39	42.15	35.00
Chile		28.30	28.02	27.98	33.52
Panama		29.52	36.36	34.55	35.39
Australia	48.29		29.81	31.91	30.19
French Polynesian Islands	43.71	51.15	51.09		32.56

TABLE 8.—MOTOR FUELS: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84—Continued

Market	1980	1981	1982	1983	1984
All other	12.43	39.64	38.75	37.76	42.24
Average	19.30	40.80	38.89	35.48	32.21

[1] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

The major markets for petroleum products have been other developed nations lacking significant reserves of crude petroleum for use as a raw material base, especially Japan, Canada, the Netherlands, and Singapore. These four nations together accounted for nearly 50 percent of U.S. exports of petroleum products. A notable exception is Mexico, which in 1984 was the third largest purchaser of exported products.

Apparent U.S. consumption

U.S. consumption of petroleum products has varied since 1971 as a result of price changes as to crude petroleum and petroleum products, product availability, and conservation efforts. In 1979, U.S. consumption of petroleum products was 18.5 million barrels per day and declined to 15.2 million barrels per day in 1983. Consumption in 1984 was 15.7 million barrels per day, as shown in the following tabulation (in thousands of barrels per day), covering 1979–84:[18]

Year	*Consumption*
1979	18,513
1980	17,056
1981	16,058
1982	15,296
1983	15,231
1984	15,745

During 1978–82, the refiner acquisiton cost for domestic and imported crude petroleum rose sharply before declining slightly in 1983 and 1984 as shown in the tabulation on page 15 (in dollars per barrel), for 1979–84:[19]

Year	Refiner acquisition cost of crude petroleum	
	Domestic	Imported
1978	$10.61	$14.57
1979	14.27	21.67
1980	24.23	33.89
1981	34.33	37.05
1982	31.22	33.55
1983	28.87	29.30
1984	28.63	28.96

Partially as a result of these price increases, retail prices for petroleum products increased in 1980, leading consumers to use alternative sources of energy and to reduce consumption through conservation efforts. However, as the pace of economic activity improved in 1983, the decline in consumption of petroleum products slowed compared with previous years. In 1984, domestic consumption of petroleum products increased slightly for the first time since 1978.

Consumption of motor gasoline accounts for about 42 percent of total domestic consumption of petroleum products. Motor gasoline consumption decline when prices rose after the 1973 Arab embrago and again in 1979 following the revolution in Iran. Consumption of motor gasoline began to increase slightly in 1983 and 1984 as a result of improved economic activity and lower prices. The following tabulation

[18] U.S. Department of Energy, Petroleum Supply Monthly, June 1984, p. 2.
[19] U.S. Department of Energy, Monthly Energy Review, October 1984, p. 89.

shows total gasoline consumption and the percentage accounted for by unleaded gasoline:[20]

Year	Motor gasoline	
	Total (thousands of barrels per day)	Unleaded gasoline as a share of total consumption (percent)
1973	6,674	(1)
1974	6,537	(1)
1977	7,177	27.5
1979	7,034	39.8
1980	6,579	46.6
1981	6,588	49.5
1982	6,539	52.1
1983	6,622	55.1
1984	6,715	2 59.0

1 Data were not collected until 1977.
2 Estimated.

The following tabulation shows the average price of motor gasoline (in cents per gallon, including tax) during 1977–84:[21]

	Leaded regular	Unleaded regular	Unleaded premium	Average for all types
1977	62.2	65.6	(1)	(1)
1979	85.7	90.3	(1)	88.2
1980	119.1	124.5	(1)	122.1
1981	131.1	137.8	147.0	135.3
1982	122.2	129.6	141.5	128.1
1983	115.7	124.1	138.3	122.5
1984	2 113.1	2 121.4	2 136.7	2 119.9

1 Not available.
2 Estimated, based on January to November data.

Effects on revenue

The bill calls for substantially higher rates of duty on motor fuel and motor fuel blending stocks than are currently in force. If the quantity of motor fuel and motor fuel blending stocks imported into the United States remains near 1984 levels, annual customs revenues would increase. If it is assumed that 1984 imports under TSUS item 475.25 would be classified in items 475.26 and 475.27, calculated duties under the two new items would be about $450 million. However, it appears more likely that the higher rates of duty would result in a decrease in U.S. imports of these petroleum products.

During the course of the Commission's investigation No. 332-203, representatives from PEMEX [22] and the Chinese producers of gasoline stated that if their product could not enter the United States at the motor fuel rate of duty of 1.25¢ per gallon, shipments of gasoline from these nations to the United States would not be economically feasible and would cease. This fact makes it difficult to establish future revenue impact.

Technical comments

The proposed legislation does not address the classification of ethyl alcohol/gasoline mixtures, including gasohol, or of fuel-use ethyl alcohol. In particular, it seems likely that Customs officers would continue to classify mixtures of gasoline and ethyl alcohol as "motor fuel", with the result that the ethyl alcohol would not be assessed the 60¢ per gallon additional duty under TSUS item 901.50.[23] However, the

[20] U.S. Department of Energy, Monthly Energy Review, October 1984, p. 45.
[21] Ibid., p. 92.
[22] PEMEX (Petroleos Mexicanos) is the Mexican State-owned petroleum company.
[23] *See* the Commission's report in inv. No. 332-203 at pages 54–55.

higher rates of duty which would be imposed under items 475.26 and 425.27 may have substantially the same effect, particularly in view of the proposed tariff-rate quota (assuming that the product meets the ASTM specifications for motor fuel or the new definition of "motor fuel blending stock").

More significant problems are presented by the structure of the new tariff items. First, since under the proposed headnote changes an actual use standard would be applied to identify motor fuel and motor fuel blending stocks, item 475.35 can be amended by deleting "those to be used as" from the article description. Second, all motor fuels would be covered by the actual use requirement in the amended headnote and new superior heading; that is, for every importation, verification of the use to which the article is applied must be made within three years of the date of entry. This process, which is administratively burdensome for the Customs Service, would be necessary as to jet fuel and products other than gasoline, although the sponsor cited imported gasoline (in addition to the blending stocks) as the principal problem facing domestic refiners; gasoline has become the predominant product entered under TSUS item 475.25 (88 percent in 1984). These other non-gasoline products would also face a considerable duty increase, although the increase is principally a result of rising gasoline imports. Thus, the proposed change in the headnote from chief use to actual use may have unintended and undesired results if enacted; the tariff-rate quota provisions and the actual use criterion as to blending stocks may be sufficient to accomplish the sponsor's intent.

Finally, the effective date provision (section 3) should be amended to read "on or after" the fifteenth day after the date of enactment.

GATT considerations

To the extent that duty rates on any of these products are increased, the United States would likely be viewed as violating previous trade agreement concessions made under the auspices of the General Agreement on Tariffs and Trade (GATT). Specifically, GATT Article II:1(b) prohibits the assessment of customs duties on products covered by Part 1 of a contracting party's GATT schedule (the United States submits Schedule XX) in excess of the rates set forth therein, if the products originate in the territories of other contracting parties. Accordingly, contracting parties supplying such products to the United States (in particular, Brazil, Canada, the Netherlands, and Italy) could invoke GATT dispute settlement mechanisms and may take retaliatory action, including the revocation of concessions of benefit to this country. However, it should be noted that Venezuela and some Caribbean and OPEC nations exporting refined petroleum products are not parties to the GATT.

H.R. 2396

Section-by-section analysis

The proposed legislation, drafted as a single section, would make several changes in part 10 of schedule 4 of the Tariff Schedules of the United States (TSUS) in order to modify the tariff treatment of some naphthas and create a new tariff item for motor fuel blending stocks. First, it would amend headnote 1 to part 10 to require that motor fuel blending stocks be classified in part 10, whether or not of benzenoid origin. Second, it would add to headnote 2 to part 10 a new paragraph defining "motor fuel blending stocks" and requiring verification that articles entered as such blending stocks actually be used in manufacturing motor fuels. Third, it would create new TSUS item 475.27 providing for such blending stocks *eo nomine,* with proposed duty rates identical to those imposed on imported motor fuel. Finally, it would amend TSUS item 475.30 (covering kerosene derived from petroleum, shale oil, or both (except motor fuel)), to exclude from that item both such fuel and motor fuel blending stocks.

Background

Description and uses.—"Motor fuel blending stock" is a term used to refer to a variety of materials derived from petroleum, shale oil, or natural gas, which can be further processed into specification-grade motor fuel. It can also be used to describe materials that can be physically blended with other materials to make motor gasoline.

Motor fuel blending stocks could be used as a fuel in internal combustion or other engines but are outside the American Society of Testing Materials (ASTM) octane range. Generally, these products are mixed or blended with other chemicals, such as tetraethyl lead (TEL), to obtain a higher octane product that meets the ASTM octane specifications for motor fuel.

Purpose.—This legislation is designed to correct an anomaly currently in existence in the TSUS and made apparent by industry sources, according to the sponsor's

staff. Under current law, the Customs Service interprets the TSUS to require them to impose higher duties on certain components of motor fuels than on finished motor fuels.[1] During the 98th Congress, the House Committee on Ways and Means and the Senate Committee on finance requested the U.S. International Trade Commission to conduct a study after the conference committee on the recently enacted Trade and Tariff Act of 1984 failed to agree on the tariff reclassification of catalytic naphtha and motor fuel blending stocks/unfinished gasoline. From late 1983 through July 1984, a number of bills were introduced in Congress pertaining to the reclassification of these products. H.R. 4232 and S. 2479 were introduced with a proposed duty rate of 0.25 cents per gallon for catalytic naphtha, a component used in the production of finished gasoline. While these bills were being considered by Congress, two additional bills pertaining to the reclassification of unfinished gasoline or motor fuel blending stocks, H.R. 5455 and S. 2900, were introduced to create new tariff item for these products with a duty rate of 1.25 cents per gallon, the same rate as on finished motor fuels.

Since catalytic naphtha and motor fuel blending stocks are used in the production of gasoline, the Administration proposed a single alternative in May 1984 that was designed to satisfy the intent of both H.R. 4232 and H.R. 5455. Due to the unusual complexity of the products involved, the conferees determined that prior to further congressional action on the issue, the Commission should be asked to examine the desirability of reclassification and the possible ramifications. In addition, the conferees requested the Commission to provide import data for ethyl and methyl alcohol and to recommend changes that would improve the tariff nomenclature for these products.

Prior investigations

As noted previously, the Commission released its report on investigation No. 332-203 in April 1985.[2]

Comparison with present law

Tariff treatment under the TSUS.—Imports of naphthas and other motor fuel blending stocks are currently classifiable in part 1, part 2, or part 10 of schedule 4 of the TSUS. Depending on its characteristics, a particular blending stock may be classified—

(1) in part 1, item 407.16, as a mixture, in whole or in part of benzenoid chemicals, such mixture resulting directly from the distillation/cracking/reforming process and to which no other chemicals have been added after such process; catalytic naphthas are included in this category;

(2) in part 10, item 475.35, as a mixture, not in whole or in part of benzenoid chemicals, such mixture resulting directly from the distillation/cracking/reforming process and to which no other chemicals are added after such process; or

(3) in part 2, item 432.10, as a mixture such as (1) or (2) above, to which are subsequently added lead alkyls, ethyl alcohol or other nonbenzenoid organic chemicals, and/or inorganic components.

If any of these products meets the ASTM criteria for motor fuel, they are then classifiable in TSUS item 475.25.

The following tabulation shows the rates of duty on these articles in 1985:

TSUS item No.	Description [1]	Col. 1 rate of duty	Col. 2 rate of duty
475.25	Motor fuel	1.25¢/gal.	2.5¢/gal.
475.35	Naphthas derived from petroleum, shale oil, natural gas, or combinations thereof (except motor fuel) [and except naphtha of TSUS item 407.16].	0.25¢/gal.	0.5¢/gal.

[1] The expressions in brackets were added here for explanatory purposes. Otherwise, the descriptions are shown as they appear in the TSUS. Item 407.16 covers benzenoid naphthas and other benzenoid mixtures.

Tariff treatment under the proposed Harmonized System (HS).— According to the September 1984 draft converted tariff schedule released by the Trade Policy Staff

[1] *See* T.D. 83-173 of August 17, 1983 (revoking T.D. 66-23(13) of January 19, 1966).

[2] U.S. International trade Commission, Possible Effects of and Recommendations Concerning the Tariff Reclassification of Catalytic Naphtha and Other Motor Fuel Blending Stocks, USITC Pub. No. 1686, April 1985. *See also* Certain Ethyl Alcohol from Brazil: Determination of the Commission in Investigation No. 701-TA-239 (Preliminary), USITC Publication 1678, April 1985.

Committee, naphtha and naphtha-based products used as motor fuel blending stocks would be covered by HS subheadings 2710.00.15 (motor fuel) and 2710.00.18 (motor fuel blending stocks, including catalytic and other naphthas, with or without additives, and ethyl alcohol/gasoline mixtures). Naphtha for chemical conversion would be covered by HS 2710.00.25. The HS attaches to its description of motor fuel (2710.00.15) by means of legal note 3 to chapter 27 a "principal use" restriction, similar to "chief use" in the TSUS; the applicable provisions are shown in the tabulation on the following page.

Heading No.	Article description	Col. 1 (general)	Col. 2
2710.00.15	Motor fuel	52.5¢/bbl	$1.05/bbl
2710.00.18	Motor fuel blending stocks	52.5¢/bbl	$1.05/bbl
2710.00.25	Naphthas (except motor fuel or motor fuel blending stock)	10.5¢/bbl	21¢/bbl

Structure of the domestic industry

The United States relies on the major international petroleum companies and the independent domestic refiners to supply its need for crude petroleum and petroleum products. According to the 1977 Census of Manufacturers, 349 U.S. refineries were in operation in that year; however, as of January 1, 1983, the number of operating refineries had fallen to 225, with a total capacity to process 16.2 million barrels of crude petroleum per day.[3] As of January 1, 1985, there were 191 operating refineries in the United States, with a crude petroleum capacity of 15.9 million barrels per day.[4] The decrease in the number of operating refineries since 1977 is believed to result from a combination of factors, including decreased domestic demand for petroleum products, market shifts, increased transportation costs, consolidation of refinery operations, the end of the Federal entitlements program for small refineries, and the decontrol of crude petroleum prices in 1981. Of the total refineries in operation, 131 are operated by independent refiners, which account for 30 percent of U.S. refining capacity.[5]

Employment in the petroleum refining industry decreased from 108,300 workers in 1979 to 100,600 in 1983.[6] The number of production workers declined from 72,800 in 1979 to 64,700 in 1983.[7]

The major States producing petroleum products are Texas, California, and Louisiana. As of January 1, 1985, these States accounted for about 41 percent of the total number of U.S. refineries and 57 percent of the total refining capacity.[8]

Domestic production

Between 1977 and 1985, approximately 158 refineries ceased operations. The typical closed refinery had a capacity of less than 50,000 barrels per day, with no cracking or other major crude petroleum upgrading facilities. Many of these refineries were built under the federal program of support for small refiners in the 1970's.[9] During the period 1982–83, the refineries remaining open were primarily sophisticated units that operated at about 68–70 percent of capacity, compared with an average of 85 percent in 1979.[10] During the first half of 1984, the refinery capacity utilization rate averaged about 76 percent, as a result of higher gross inputs of crude petroleum to refineries and lower total refining capacity.[11] Another factor contributing to the decrease in U.S. production of refined products and the subsequent decline in capacity utilization is an increase in offshore refinery operations. Currently, the world crude petroleum market is witnessing a situation of oversupply as well as excess refinery capacity. Some of the excess production of these offshore

[3] "Annual Refining Report," Oil and Gas Journal, Mar. 21, 1983, p. 130.
[4] "Annual Refining Report," Oil and Gas Journal, Mar. 18, 1985, p. 123.
[5] Submission by the Independent Refiners Coalition for Investigation No. 332-203.
[6] U.S. Department of Commerce, Bureau of Industrial Economics, U.S. Industrial Outlook, 1984, January 1984, p. 8-5.
[7] Ibid.
[8] "Annual Refining Report," Oil and Gas Journal, Mar. 18, 1985, p. 123.
[9] Resource Systems Institute, OPEC Downstream Project, "The Changing Structure of World Refining Industry: Implications for U.S. Energy Security," presented to the U.S. Department of Energy, Jan. 23, 1985, P. 23.
[10] U.S. Department of Energy, Petroleum Supply Monthly, March 1982, p. 6 and January 1983, p. 6.
[11] U.S. Department of Energy, Petroleum Supply Monthly, June 1984, p. xiii.

refinery facilities enters the U.S. market, which is already faced with decreased demand for these refined products.

The following tabulation shows U.S. production of selected petroleum products (in thousands of barrels per day), 1973–84: [12]

Year	Motor gasoline	Distillate fuel oil	Residual fuel oil	Liquefied petroleum gases [1]	Other [2]
1973	6,535	2,822	971	1,600	3,693
1977	7,033	3,278	1,754	1,566	3,912
1979	6,852	3,153	1,687	1,556	4,153
1980	6,506	2,662	1,580	1,535	3,956
1981	6,405	2,613	1,321	1,571	3,739
1982	6,388	2,606	1,070	1,528	3,453
1983	6,340	2,456	852	1,642	3,460
1984	6468	2,688	891	1,702	3,656

[1] Includes ethane, propane, normal butane, and isobutane.
[2] Includes pentanes, other hydrocarbons, alcohols, unfinished oils, gasoline blending components, and all finished petroleum products, except finished motor gasoline, distillate fuel oil, residual fuel oil, and liquified petroleum gases.

U.S. imports

The United States is a net importer of petroleum products, primarily from Venezuela and refineries in the Caribbean nations. As a result of increased prices, the value of imports of all petroleum products increased from $11.4 billion in 1980 to $18.6 billion in 1984 (table 1). U.S. imports of petroleum products could increase further as additional refinery capacity begins to be used in the OPEC nations as well as other conventional-energy-rich nations. As of January 1, 1985, the OPEC nations had the capacity to refine 4.8 million barrels per day of crude petroleum and are expected to have a refining capacity of 7.7 million barrels per day by 1987.[13] These nations, with abundant supplies of crude petroleum and natural gas, have a competitive advantage in the production of energy-intensive products, such as petroleum product and petrochemicals, because of relatively assured low-cost supplies or raw materials. At a time when exports of crude petroleum have peaked, these nations have developed or are developing processing and manufacturing industries to utilize natural resource advantages and to diversify their exports and further their economic development.

Residual fuel oils accounted for about 38 percent of the total value of U.S. imports of petroleum products in 1984. U.S. residual fuel oil imports decreased in quantity from 282 million barrels in 1980 to 254 million barrels in 1984; the value decreased only slightly from $7.2 billion in 1980 to $7.1 billion in 1984, primarily because of rising prices. The major sources of U.S. imports or residual fuel oils in 1984 were the North Antilles (except the Bahamas) and Venezuela, together accounting for 41 percent (table 2).

TABLE 1—PETROLEUM PRODUCTS: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

[In thousands of dollars]

Source	1980	1981	1982	1983	1984
Venezuela	3,202,196	3,078,736	2,995,228	2,890,272	3,482,349
Algeria	633,030	1,059,741	1,351,209	1,655,822	2,535,309
Netherlands Antilles	2,428,061	2,503,093	2,051,526	2,180,452	1,960,574
Canada	588,264	966,541	799,031	1,187,966	1,339,722
Netherlands	71,519	507,191	544,600	774,398	1,068,668
Bahamas	1,262,283	1,146,145	941,492	1,547,388	1,007,010
Mexico	85,705	292,863	235,754	475,919	791,227
Brazil	29,036	123,771	377,158	531,820	716,035

[12] U.S. Department of Energy, Monthly Energy Review, October 1984, pp. 45, 47, 49, 51, and 52.
[13] U.S. Department of Energy, *Monthly Energy Review*, October 1984, pp. 45, 47, 49, 51, and 52.

TABLE 1—PETROLEUM PRODUCTS: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84—Continued

[In thousands of dollars]

Source	1980	1981	1982	1983	1984
All other	3,055,417	3,512,049	3,767,409	3,739,945	5,734,477
Total	11,355,510	13,190,129	13,063,408	14,983,983	18,635,372

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 2.—RESIDUAL FUEL: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 barrels)				
Netherlands Antilles	63,794	62,409	57,588	62,974	54,110
Venezuela	106,485	85,570	78,859	57,310	48,780
Algeria	11,536	16,849	28,857	21,827	24,003
Bahamas	29,788	17,252	15,681	25,903	16,749
Peru	385	1,505	4,270	9,525	12,035
Brazil	1,019	3,884	7,408	9,456	10,902
Canada	12,680	13,045	9,797	11,136	10,391
Indonesia	7,755	11,483	3,966	5,496	7,300
All other	48,567	45,727	59,314	59,943	70,162
Total	282,010	257,724	265,739	263,568	254,431
	Value (1,000 dollars)				
Netherlands Antilles	1,455,971	1,820,185	1,482,590	1,628,008	1,495,709
Venezuela	2,708,417	2,561,622	2,135,988	1,465,819	1,355,761
Algeria	356,080	563,715	919,461	639,192	721,727
Bahamas	874,713	596,294	443,193	764,164	491,457
Peru	9,959	44,015	118,873	248,227	323,130
Brazil	29,031	117,862	218,747	255,708	312,150
Canada	275,148	361,061	265,308	303,483	294,680
Indonesia	228,076	363,382	123,816	152,820	205,598
All other	1,289,379	1,305,666	1,587,099	1,603,870	1,923,903
Total	7,226,774	7,733,802	7,295,075	7,061,292	7,124,116
	Unit value (per barrel)				
Netherlands Antilles	$22.82	$29.17	$25.74	$25.85	$27.64
Venezuela	25.43	29.94	27.09	25.58	27.79
Algeria	30.87	33.46	31.86	29.28	30.07
Bahamas	29.36	34.56	28.26	29.50	29.34
Peru	25.89	29.25	27.84	26.06	26.85
Brazil	28.48	30.34	29.53	27.04	28.63
Canada	21.70	27.68	27.08	27.25	28.36
Indonesia	29.41	31.65	31.22	27.81	28.16
All other	26.55	28.55	26.76	26.76	27.42
Average	25.63	30.01	27.45	26.79	28.00

Source: Compiled from official statistics of the U.S. Department of Commerce.

U.S. imports of distillate fuel oils increased irregularly from 15 million barrels, valued at $552 million in 1980 to 61 million barrels, valued at $2.0 billion, in 1983, then to 103 million barrels, valued at $3.3 billion, in 1984 (table 3). Venezuela, Mexico, and Canada supplied about 54 percent of total 1984 U.S. imports of distillate fuel oils.

U.S. imports of motor fuel increased irregularly from 19 million barrels in 1980 to 102 million barrels in 1984; however, during the same period the value of these imports increased from $716 million to $3.2 billion (table 4). In 1983, the major sources

for U.S. imports of motor fuel were the Netherlands, accounting for 20 percent, and Venezuela, accounting for 16 percent. In 1984, this situation was reversed, with the Netherlands supplying 14 percent and Venezuela 22 percent.

Exports.—Until 1982, the exportation of petroleum products was restricted; it may, at any time, be restricted by the President under section 103 of the "Energy Policy and Conservation Act," Public Law 94-163 of December 22, 1975. The President acts through the Secretary of Commerce who imposes such restrictions as are necessary to be consistent with the national interest, specifically through the requirement of validated export licenses.[14]

Exports of petroleum products during 1980–84 are shown in table 5. The value of U.S. exports increased by 265 percent during 1980–82. The reasons for this apparent dramatic growth include an increase in the unit value of petroleum product exports and the 1982 relaxation of export restrictions. However, U.S. exports in 1984 declined by 25 percent to a value of $3.6 billion, because of the strength of the U.S. dollar in relation to other currencies and an oversupply of products on the world market.

TABLE 3.—DISTILLATE FUEL: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 barrels)				
Venezuela	326	6,013	6,809	13,246	24,953
Mexico	201	1,281	600	4,349	16,800
Canada	512	5,490	4,140	12,776	13,851
Netherlands	192	4,005	823	4,404	10,839
Bahamas	1,167	7,081	8,579	12,572	8,425
Algeria	253	2,164	454	2,769	7,062
USSR	0	2,062	0	1,729	6,292
Netherlands Antillies	7,234	3,142	3,572	2,659	3,299
All other	5,437	7,125	5,712	6,737	12,945
Total	15,322	38,363	30,689	61,240	103,466
	Value (1,000 dollars)				
Venezuela	10,041	230,403	240,524	426,918	808,595
Mexico	5,634	39,383	14,936	138,277	481,069
Canada	10,976	214,258	157,025	420,225	461,203
Netherlands	8,437	152,700	32,340	146,207	364,106
Bahamas	40,528	272,993	303,559	401,011	270,643
Algeria	8,783	80,678	17,843	85,587	229,677
USSR		80,706		55,968	168,040
Netherlands Antillies	257,206	114,209	116,071	85,919	103,746
All other	180,387	269,920	197,530	204,581	400,685
Total	521,992	1,455,250	1,079,829	1,964,692	3,287,763
	Unit value (per barrel)				
Venezuela	$30.77	$38.32	$35.32	$32.23	$32.40
Mexico	28.01	30.76	24.90	31.80	28.64
Canada	21.44	39.03	37.93	32.89	33.30
Netherlands	43.94	38.13	39.28	33.20	33.59
Bahamas	34.73	38.55	35.38	31.90	32.12
Algeria	34.71	37.28	39.34	30.91	32.52
USSR		39.14		32.38	31.75
Netherlands Antillies	35.56	36.35	32.50	32.32	31.45
All other	33.18	37.88	34.58	30.37	30.95
Average	34.07	37.93	35.19	32.08	31.78

Source: Compiled for official statistics of the U.S. Department of Commerce.

[14] The rules governing these exports are set forth in section 377.6, "Petroleum and Petroleum Products," of the Export Administration Regulations of the U.S. Department of Commerce (15 C.F.R. § 377.6).

TABLE 4.—MOTOR FUELS: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 barrels)				
Venezuela	4	0	1,584	12,201	22,949
Netherlands	591	6,092	11,375	15,381	14,700
Brazil	0	0	3,868	7,590	12,554
Canada	3,439	3,780	3,833	7,904	9,744
China Mainland	2,559	6,767	9,559	10,371	10,687
Italy	1,153	3,113	1,643	3,071	6,556
United Kingdom	(1)	26	476	2,223	4,517
Romania	0	2,312	1,958	6,385	4,533
All other	11,208	10,786	13,324	13,592	16,012
Total	18,953	32,876	47,620	78,719	101,799
	Value (1,000 dollars)				
Venezuela	100		61,198	427,551	720,866
Netherlands	24,575	242,094	411,547	511,119	466,398
Brazil			142,745	253,202	377,448
Canada	129,582	153,485	153,673	277,089	321,953
China Mainland	81,809	258,744	336,884	308,895	309,909
Italy	53,075	121,305	59,402	101,245	197,574
United Kingdom	(1)	1,052	17,172	76,182	141,374
Romania		90,241	69,846	207,709	136,346
All other	426,713	430,554	496,978	466,367	505,581
Total	715,855	1,297,476	1,749,445	2,629,359	3,177,451
	Unit value (per barrel)				
Venezuela	$25.02		$38.62	$35.04	$32.04
Netherlands	41.60	$39.74	36.18	33.23	31.73
Brazil			36.90	33.36	30.07
Canada	37.68	40.60	40.09	35.06	33.04
China Mainland	31.97	38.24	35.24	29.78	29.00
Italy	46.04	38.97	36.15	32.97	30.13
United Kingdom	113.00	40.37	36.10	34.27	31.30
Romania		39.02	35.68	32.53	30.08
All other	38.07	39.92	37.30	34.31	31.58
Total	37.77	39.47	36.74	33.40	31.21

[1] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 5.—PETROLEUM PRODUCTS: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

[In thousands of dollars]

Market	1980	1981	1982	1983	1984
Japan	75,770	151,692	483,606	489,930	539,412
Canada	107,431	215,384	317,299	428,585	512,421
Mexico	218,609	210,206	962,901	196,868	270,028
Netherlands Antilles	4,940	16,876	75,657	147,947	258,656
United Kingdom	50,084	36,732	126,652	85,555	218,200
China	39,194	85,244	44,676	113,314	157,229
Spain					148,312
Korean Republic	17,328	87,875	277,132	132,516	147,816
All other	799,477	1,426,571	2,503,971	2,173,975	1,325,122
Total	1,312,833	2,230,580	4,791,893	3,768,688	3,577,194

Source: Compiled from official statistics of the U.S. Department of Commerce.

Tables 6–8 show the increase in volume of exports through 1982 of three major petroleum products, distillate fuel oil, motor fuels, and residual fuel oil, which together accounted for nearly 78 percent of petroleum product exports in 1982. U.S. exports of residual fuels increased from 6 million barrels, valued at $163 million in 1980 to 67 million barrels, valued at $1.8 billion in 1984 (table 6).

Exports of distillate fuel oils increased from 387,000 barrels in 1980 to 1.2 million barrels in 1981; by 1982, distillate fuel oil exports increased to more than 28.2 million barrels. In 1984, exports declined to 19.3 million barrels (table 7).

Exports of motor fuels, however, decreased in volume from 1.3 million barrels in 1980 to 1.0 million barrels in 1981. After export restrictions were relaxed, export volume climbed to over 13.9 million barrels in 1982; but it then declined to 3.1 million barrels in 1984 because of the increased value of the U.S. dollar and declining demand (table 8).

The major markets for petroleum products have been other developed nations lacking significant reserves of crude petroleum for use as a raw material base, especially Japan, Canada, the Netherlands, and Singapore. These four nations together accounted for nearly 50 percent of U.S. exports of petroleum products. A notable exception to this rule is Mexico, which was the third largest market in 1984.

TABLE 6.—RESIDUAL FUEL: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 barrels)				
Japan	10	1,887	5,645	10,694	13,580
United Kingdom	0	247	3,346	1,645	7,725
Netherlands Antilles	100	0	2,812	4,056	7,210
China Taiwan	551	2,220	958	3,640	4,140
Korean Republic	0	2,433	8,298	3,524	3,922
Italy	0	2,733	3,276	2,581	3,610
Spain	0	0	0	0	3,366
Singapore	1,940	4,699	6,181	13,740	3,140
All other	3,475	18,607	44,002	22,335	20,276
Total	6,076	32,826	74,518	62,216	66,969
	Value (1,000 dollars)				
Japan	376	54,364	162,029	276,692	369,215
United Kingdom		5,568	81,724	42,312	206,219
Netherlands Antilles	1,732		69,436	96,113	193,576
China Taiwan	14,760	66,325	26,254	97,370	112,367
Korean Republic		65,444	214,714	93,456	104,129
Italy		90,567	83,182	63,773	92,590
Spain					89,295
Singapore	58,390	137,286	167,024	344,549	83,215
All other	88,368	488,504	1,112,088	578,040	551,943
Total	163,627	908,059	1,916,451	1,592,305	1,802,551
	Unit value (per barrel)				
Japan	$37.47	$28.81	$28.71	$25.87	$27.19
United Kingdom		22.50	24.43	25.72	26.70
Netherlands Antilles	17.25		24.69	23.69	26.85
China Taiwan	26.80	29.88	27.41	26.75	27.14
Korean Republic		26.90	25.87	26.52	26.55
Italy		33.14	25.39	24.71	25.65
Spain					26.53
Singapore	30.09	29.22	27.02	25.08	26.50
All other	25.43	26.25	25.27	25.88	27.22
Average	26.93	27.66	25.72	25.59	26.92

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 7.—DISTILLATE FUEL: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 barrels)				
Canada	2	5	4	1,389	5,417
Japan	20	403	5,458	4,955	3,321
Netherlands Antilles	0	0	119	1,265	1,492
Panama	262	134	739	883	1,424
Spain	0	0	0	0	1,233
China Taiwan	0	1	0	0	920
Bahamas	[1]	[1]	51	528	917
Ecuador	0	[1]	617	1,254	804
All other	102	672	21,258	16,144	3,799
Total	387	1,216	28,245	26,418	19,328
	Value (1,000 dollars)				
Canada	74	181	141	46,822	169,965
Japan	820	16,412	205,079	159,314	106,343
Netherlands Antilles			3,389	38,519	46,401
Panama	5,692	5,406	27,287	28,189	46,079
Spain					37,906
China Taiwan		29			28,747
Bahamas	8	14	1,937	16,063	28,217
Ecuador		2	25,002	41,984	26,329
All others	3,179	28,341	819,557	550,439	121,759
Total	9,773	50,384	1,082,400	881,330	611,746
	Unit value (per barrel)				
Canada	$30.05	$36.71	$34.77	$33.71	$31.38
Japan	40.88	40.68	37.57	32.15	32.02
Netherlands Antilles			28.67	30.46	31.10
Panama	21.70	40.37	36.91	31.93	32.35
Spain					30.74
China Taiwan		25.99			31.25
Bahamas	* 24.76	36.68	38.34	30.45	30.77
Ecuador		35.00	40.55	33.48	32.73
All other	31.22	42.15	38.55	34.10	32.05
Average	25.25	41.43	38.32	33.36	31.65

[1] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 8.—MOTOR FUELS: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 barrels)				
Canada	13	190	128	1,846	885
New Zealand	69	0	(1)	0	443
Ecuador	0	0	173	1,098	462
Netherlands Antilles	0	0	(1)	275	291
Chile	0	(1)	(1)	(1)	262
Panama	0	(1)	30	71	237
Australia	78	0	(1)	438	269
French Polynesian Islands	116	84	111	0	114
All other	1,049	752	13,494	708	141
Total	1,324	1,026	13,938	4,436	3,104

TABLE 8.—MOTOR FUELS: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84—Continued

Market	1980	1981	1982	1983	1984
	Value (1,000 dollars)				
Canada	341	7,766	5,138	64,857	27,549
New Zealand	3,362		9		14,224
Ecuador			7,225	37,748	13,062
Netherlands Antilles			1	11,607	10,173
Chile		1	9	1	8,799
Panama		1	1,098	2,444	8,375
Australia	3,754		2	13,990	8,121
French Polynesian Islands	5,070	4,292	5,670		3,704
All other	13,043	29,824	522,899	26,724	5,976
Total	25,569	41,883	542,052	157,370	99,983
	Unit value (per barrel)				
Canada	$26.62	$40.84	$40.06	$35.13	$31.14
New Zealand	48.72		44.36		32.10
Ecuador			41.71	34.39	28.26
Netherlands Antilles			28.39	42.15	35.00
Chile		28.30	28.02	27.98	33.52
Panama		29.52	36.36	34.55	35.39
Australia	48.29		29.81	31.91	30.19
French Polynesian Islands	43.71	51.15	51.09		32.56
All other	12.43	39.64	38.75	37.76	42.24
Average	19.30	40.80	38.89	35.48	32.21

[1] Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Apparent U.S. consumption

U.S. consumption of petroleum products has varied since 1971 as a result of crude petroleum and petroleum products price changes, product availability, and conservation efforts. In 1979, U.S. consumption of petroleum products was 18.5 million barrels per day. It declined to 15.2 million barrels per day in 1983; consumption in 1984 was 15.7 million barrels per day, as shown in the following tabulation (in thousands of barrels per day), 1979–84:[15]

Year	*Consumption*
1979	18,513
1980	17,056
1981	16,058
1982	15,296
1983	15,231
1984	15,745

During 1978–82, the refiner acquisition cost for domestic and imported crude petroleum rose sharply before declining slightly in 1983 and 1984 as shown in the following tabulation (in dollars per barrel), 1979–84:[16]

[15] U.S. Department of Energy, Petroleum Supply Monthly, June 1984, p. 2.
[16] U.S. Department of Energy, Monthly Energy Review, October 1984, p. 89.

Year	Refiner acquisition cost of crude petroleum	
	Domestic	Imported
1978	$10.61	$14.57
1979	14.27	21.67
1980	24.23	33.89
1981	34.33	37.05
1982	31.22	33.55
1983	28.87	29.30
1984	28.63	28.96

Partially as a result of these cost increases, retail prices for petroleum products increased in 1980, which led consumers to use alternative sources of energy and to reduce consumption through conservation efforts.

However, as the pace of economic activity improved in 1983, the decline in consumption of petroleum products slowed compared with previous years. In 1984, domestic consumption of petroleum products increased slightly for the first time since 1978.

Consumption of motor gasoline accounts for about 42 percent of total domestic consumption of petroleum products. Motor gasoline consumption declined when prices rose after the 1973 Arab embargo and again in 1979 following the revolution in Iran. Consumption of motor gasoline began to increase slightly in 1983 and 1984 as a result of improved economic activity and lower prices. The following tabulation shows total gasoline consumption, as well as the percentage represented by unleaded gasoline:[17]

Year	Motor gasoline	
	Total (thousands of barrels per day)	Unleaded gasoline as a of total consumption (percent)
1973	6,674	(1)
1974	6,537	(1)
1977	7,177	27.5
1979	7,034	39.8
1980	6,579	46.6
1981	6,588	49.5
1982	6,539	52.1
1983	6,622	55.1
1984	6,715	2 59.0

[1] Data were not collected until 1977.
[2] Estimated.

The following tabulation shows the average price of motor gasoline (in cents per gallon, including tax), for 1977–84:[18]

Year	Leaded regular	Unleaded regular	Unleaded premium	Average for all types
1977	62.2	65.6	(1)	(1)
1979	85.7	90.3	(1)	88.2
1980	119.1	124.5	(1)	122.1
1981	131.1	137.8	147.0	135.3
1982	122.2	129.6	141.5	128.1
1983	115.7	124.1	138.3	122.5
1984	2 113.1	2 121.4	2 136.7	2 119.9

[1] Not available.
[2] Estimated, based on January to November data.

[17] U.S. Department of Energy, Monthly Energy Review, October 1984, p. 45.
[18] Ibid., p. 92.

Effect on revenue

It is unlikely that the enactment of the legislation would affect annual customs revenues, since motor fuel blending stocks have been and are currently being dutied at the motor fuel rate of 1.25¢ per gallon.

Technical comments

The bold-faced language **"SEC. 101. CLASSIFICATION OF NAPHTHA AND MOTOR FUEL BLENDING STOCKS"** should be deleted, since it appears to be unnecessary and may be confusing. Second, the language in line 5 should be amended to read "Part 10 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—", since more than headnote 1 is being changed. Third, the proposed new definition should be amended by changing "stocks" to "stock", and by changing "which is actually" to "to be". These changes would achieve consistency in language in the new provisions.

Fourth, it should be noted that the proposed legislation does not address the possible effects of the new tariff item on the classification of ethyl alcohol. In order to avoid paying the 60 cents per gallon additional duty under TSUS item 901.50, importers may mix ethyl alcohol with a small amount of gasoline and then enter the mixture under item 475.27. Thus, it maya be expedient to amend item 901.50 to include ethyl alcohol/gasoline mixtures and/or other motor fuel blending stock containing ethyl alcohol.

Finally, an effective date provision should be added, such as "Sec. 2. The amendments made by this Act shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day following the date of enactment of the Act."

U.S. TRADE REPRESENTATIVE

This is in response to your request for comments on two bills related to the classification and tariff levels for motor fuels and motor fuel blending stocks, H.R. 2354 and H.R. 2396.

Both bills attempt to deal with a complex issue which arose in the last Congress and was the subject of a recent report by the U.S. International Trade Commission ("Possible Effects of and Recommendations Concerning the Proposed Tariff Reclassification of Catalytic Naphtha and Other Motor fuel Blending Stocks," USITC Publication 1686, April 1985). We commented last year on similar proposals; a copy of our letter is enclosed for reference, since some of the same issues are likely to arise in this year's discussion.

The Office of the U.S. Trade Representative is opposed to H.R. 2354 because it would significantly increase current tariff levels for motor gasoline, which are bound under the General Agreement on Tariffs and Trade (GATT). We support the intent of H.R. 2396 but are concerned that, as drafted, the bill may not result in a logical classification of imported materials consistent with petroleum and petrochemical industry practice.

H.R. 2354 proposes conversion of the current specific duty rate of 1.25 cents per gallon on gasoline to an ad-valorem equivalent rate based on gasoline prices at the time the duty was first imposed. The current specific rate is approximately equivalent to 1.5 percent ad valorem. H.R. 2354 would raise this to 10.8 percent for the first 3 billion gallons of imports for a 12-month period, and to 21.6 percent for all imports in excess of that amount. This would result in a very substantial increase in the actual duties levied on imported gasoline, and would be contrary to our obligations under the GATT. The leading sources include Venezuela, Netherlands, Canada, Italy, and the United Kingdom.

H.R. 2396 is similar to proposals in the last Congress, which we supported, to establish a new tariff line item for motor fuel blending stocks. The intent of establishing such a new category is to provide an appropriate classification for certain intermediate petroleum products which are used for direct blending in the manufacture of motor fuels but which do not by themselves meet the technical specifications for finished motor fuels. Currently, these intermediate products are being classified as chemical mixtures and thus are being subjected to the much higher duty rates of the chemical parts of the tariff schedules. This results in an anomaly whereby an intermediate product is dutied at a higher rate than the finished product into which it is blended, in contrast to the usual increase in tariff rate corresponding to increased value added.

We continue to support the establishment of a motor fuel blending stock tariff line item, with a duty rate identical to the motor fuel duty rate. However, there are

certain technical modifications which we feel may be necessary in H.R. 2396 in order to achieve a proper classification system that distinguishes between intermediate materials used for motor fuel blending and intermediate materials used for petrochemical feedstocks. We will be pleased to transit our technical suggestions to the Subcommittee staff to assist them in their review of these proposals.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this letter from the standpoint of the Administration's program.

STATEMENT OF MATTHEW T. MCGRATH, COUNSEL, DOW CHEMICAL CO.

SUMMARY

(1) These bills would amend the Tariff Schedules of the United States by establishing new provisions for motor fuel, motor fuel blending stocks, and naphtha used as motor fuel blending stock.

(2) Dow neither supports nor opposes the bills to the extent they affect only classification and duty for naphtha used as motor fuel blending stock.

(3) However, Dow is an importer of naphtha used as petrochemical feedstock, and like other U.S. petrochemical producers, requires unrestricted access to an economic source of feedstock naphtha. Dow opposes any legislation designed to classify, or having the effect of classifying, petrochemical feedstock naphtha elsewhere than under TSUS item 475.35.

(4) Dow also urges the Subcommittee not to take any action which would validate the erroneous recent change of Customs classification practice for naphtha, whereby any naphtha which contains more than 5% by weight of "synthesized" dutiable benzenoid chemicals is classified as a benzenoid mixture with a prohibitively high rate of duty. All naphtha, regardless of chemical content composition and method of production should be classified under the provision intended for naphtha.

STATEMENT

This statement is submitted on behalf of the Dow Chemical Company, Midland, Michigan, in response to the invitation for comments of the Subcommittee on Trade, Committee on Ways and Means (Release Number 8, May 16, 1985) concerning certain tariff and trade bills. Dow is a U.S. producer of petrochemicals and petrochemical intermediates and utilizes naphtha as a petrochemical feedstock. Consequently, Dow's interest is in maintaining unrestricted access to sources of supply of essential petrochemical feedstocks.

H.R. 2354 would amend Part 10 of Schedule 4 of the Tariff Schedules of the United States by adding a new provision for motor fuel blending stock, and defining "motor fuel blending stock" as any product derived primarily from petroleum, shale oil or natural gas to be used for direct blending in the manufacture of motor fuel. The bill would establish, in essence, a tariff rate quota on gasoline and motor fuel blending stock for the importation of up to 3 billion gallons per year, and would increase the tariff rate applicable to motor fuel blending stock. The bill would also amend the current provision for naphthas, TSUS 475.35, to explicitly exclude those used as motor fuel or motor fuel blending stock.

H.R. 2396 would also add a new provision to the tariff schedules for "motor fuel blending stocks", describing it as any product (except naphthas provided for in item 475.35) used for direct blending in the manufacture of motor fuel. The bill would provide for assessment of the same rate of duty which is presently assessed on imports of motor fuel under TSUS item 475.25.

Neither of these proposals appear intended to have a direct impact on the tariff classification of naphtha used as petrochemical feedstock. To this extent, Dow offers no comment on the underlying intent and apparently competing purposes of these bills.

However, because of the considerable debate surrounding predecessors to this legislation during the 98th Congress, which resulted in an extensive study by the U.S. International Trade Commission on the Possible Effect of and Recommendations Concerning the Proposed Tariff Reclassification of Catalytic Naphtha and Other Motor Fuel Blending Stocks (U.S. ITC Inv. No. 332-203, April 1985), Dow wishes to reiterate its position that all naphtha, regardless of chemical content, composition and method of production, should be classified under TSUS 475.35 as "naphtha derived from shale oil, natural gas, or combinations thereof (except motor fuel)". Recent classification practice by the U.S. Customs Service has been to exclude this classification any naphtha that has undergone catalytic or pyrolytic treatment,

which contains in excess of 5% by weight of "dutiable" benzenoid chemicals provide for in parts 1(B) or 1(C) of Schedule 4 of the Tariff Schedules of the United States. Customs has concluded, in this regard, that the presence of more than 5% by weight in the aggregate of "synthesized" benzenoids in the naphtha requires that it be classified under TSUS item 407.16, resulting in the assessment of considerably higher rates of duty than assessed under TSUS 475.35. Dow wishes to emphasize that its decision not to comment on the legislative proposals to change the classification of, or duty rates applicable to, motor fuel blending stocks, and naphthas which are actually used as motor fuel blending stocks, should not be interpreted as acquiescence to this recent change in Customs classification practice respecting naphthas used as petrochemical feedstocks. Any provisions in the proposed legislation or amendments thereto which would affect the classification of naphtha by imposing a higher rate of duty than that provided for under TSUS 475.35, except with respect to naphtha actually used as a motor fuel blending stock, would be opposed by Dow as being contrary to the original intent of the naphtha provision in the Tariff Schedules.

Dow urges the Committee *not* to adopt in any form the recently formulated and clearly erroneous tariff classification position of Customs regarding naphtha containing more than 5% by weight of dutiable benzenoid components. A proposal introduced during the 98th Congress (Senate floor amendment number 4281, H.R. 3398) would have reclassified imported naphtha, setting an extremely low tariff rate quota on all naphtha containing benzenoid chemicals (including all "reformed" naphtha used as petrochemical feedstock), and placing the bulk of imported naphtha under the prohibitively higher tariff rate classification for benzenoid mixtures. That proposal would, in effect, have perpetuated the erroneous Customs practice applied to petrochemical feedstock naphtha, and seriously undermined the ability of the U.S. petrochemical producers to obtain an economic source of naphtha feedstock supplies. Dow and others opposed that proposal, and no legislation concerning motor fuel and naphtha classification was enacted during the 98th Congress.

The concerns underlying the two bills now being considered by the Subcommittee on Trade appear to be related only to the importation of (1) motor fuel blending stocks and (2) naphtha used by refiners in the United States to produce motor fuel. As during the 98th Congress, any legislation on this issue, regardless of its relative merits, can have the unintended effect, through amendment or further refinement, of perpetuating an erroneous Customs classification practice regarding petrochemical feedstocks—a commodity which does not appear to be a principal focus of concern for proponents and opponents of this legislation.

Therefore, Dow respectfully requests that any action taken by the Subcommittee with respect to H.R. 2396 and H.R. 2354 make it clear that naphtha which is used for petrochemical feedstock or any purposes other than motor fuel blending stock, should be properly classified under TSUS item 475.35.

Statement of the Empire State Petroleum Association, Inc.

The Empire State Petroleum Association ("ESPA") submits this statement in opposition to H.R. 2354, a bill to amend the tariff schedules of the United States with respect to motor fuel, motor fuel blending stocks, and napthas.

ESPA is the association of indepemdent gasoline distributors and heating oil marketers operating in New York state. ESPA represents approximately 500 firms, some of which directly import motor fuel or motor fuel blendstocks and many of which purchase motor fuel from importers.

The availability of economically priced imported petroleum products is critical to the viability of New York's independent marketers. H.R. 2354, which would impose a 10.8 percent ad valorem duty on imported gasoline and motor fuel blending stocks up to 3,000,000,000 gallons in any year, and a duty of 21.8 percent ad valorem on imports in excess of this volume, would impose a heavy burden on New York's independent petroleum marketer, and through them, on New York's consumers.

New York is particularly reliant on independent marketers, since no refineries are operating in the state and many of the major refiners have eliminated their marketing operations in the entire region north of the New York City metropolitan area.

There can be no doubt that an increased tariff such as that proposed in H.R. 2354 would injure New York's Independent marketers. In sum, such a tariff change would have the following effects:

(1) Increase prices for imported gasoline by at least 8–10 cents/gallon;

(2) Increase prices for domestically produced gasoline by a comparable amount;

(3) Increase prices for all other petroleum products that are priced in relation to the price of gasoline;

(4) Increase prices for transportation and production of virtually all manufactured goods;

(5) Reduce pressure on OPEC to lower the price of crude oil; and

(6) Create possible shortages, particularly of unleaded gasoline, if and when the 21.6 percent *ad valorem* duty becomes operative.

ESPA sees little corresponding benefit to increased gasoline tariffs. At best, such tariffs would only help a small class of refiners which have had difficulty marketing gasoline profitably. But there is no guarantee that such a tariff would help even these refiners, because in addition to increasing gasoline prices, it could have the effect of increasing their crude oil costs, which would offset any "benefit" of higher gasoline prices. In any case, the macroeconomic costs of H.R. 2354 to the American economy are far greater than any possible benefit to one segment of the petroleum industry.

Together with this summary, ESPA is submitting a comprehensive statement prepared by the Coalition of Independent Marketers, of which it is a member. The attached statement details the reasons why import fees or quotas on crude oil or petroleum products are unnecessary and unwise.

STATEMENT OF LEONARD P. STEUART II, PRESIDENT, STEUART PETROLEUM CO., AND CHAIRMAN, COALITION OF INDEPENDENT MARKETERS

My name is Leonard Steuart, I am President of Steuart Petroleum Company, an East Coast marketer and importer of refined petroleum products. I am also the Chairman of an *ad hoc* coalition of independent marketers opposed to the imposition of barriers to imports of crude oil and refined petroleum products. In our view, such barriers would harm competition in the petroleum industry and would hinder economic growth; further they would not contribute to the health of the petroleum industry nor the preservation of U.S. national security.

I. INTRODUCTION AND SUMMARY

Our coalition is comprised of the Independent Fuel Terminal Operators Association ("IFTOA"), the Independent Gasoline Marketers Council ("IGMC"), the Society of Independent Gasoline Marketers of America ("SIGMA") the New England Fuel Institute ("NEFI") and the Empire State Petroleum Association ("ESPA").[1] These associations represent independent retailers and wholesalers of motor gasoline and other refined petroleum products from coast to coast.

The shared interests of the Coalition's members derive from our operational independence. We compete with each other and directly with the wholesale and retail marketing operations of refiners. Indeed, our competitive impact on the marketplace has been beneficial in several ways. Independent marketers have introduced novel marketing devices such as self-service, high-volume/low-margin marketing and automated retail marketing. Because of these pioneering marketing concepts, as well as superior systems of cost controls, independent marketers have played a critical role in inducing price competition in the domestic market for refined products. In addition, independent marketers supply most of the product in the outlying and rural areas that are being abandoned by major refiners.

Our lack of crude oil production or precessing capacity means that we must secure refined product supplies either from our domestic competitors or from imports. The price at which we can procure refined products is critical; absent the availability of competitively-priced products, independent marketers would not survive.

Imports of refined products serve important economic functions beyond mere addition to available supply. They provide independent marketers with a source of competitively priced refined products. Furthermore, the availability of refined product imports to the U.S. market induces competitive pricing by domestic refiners. For each of these reasons, the American economy benefits.

We recognize that many independent refiners have been experiencing economic difficulties; so, too, have many independent marketers. However, it is our firm conclusion that imports of refined products are not a significant cause of the U.S. refining industry's dislocations. The principal causes are (1) the uneconomic expansion of refining capacity in the 1970's brought about by (a) mistaken projections of increasing demand and (b) the subsidies provided by federal regulations; and (2) the unresponsiveness, until recently, of crude oil prices to declining petroleum product

[1] A description of each of these associations is included as Attachment A.

prices. Simply stated, refiners who call for restraints on imports seek higher product prices, thereby insulating petroleum products from market forces.

In addition, refinery capacity in the United States, although declining, remains well in excess of economic or national security needs. Thus, refined product imports at current or anticipated levels do not pose any threat to U.S. national security. Rather, the converse is true: restraints on imports of refined products would undermine national security.

II. IMPORTS ARE NOT THE CAUSE OF REFINERY CLOSINGS

Clearly some domestic refiners are exeriencing economic difficulties; and many refineries have closed in recent years. (See Table 7). The source of these difficulties, however, is not the importation of refined petroleum products. Rather, these difficulties are the result of the struggle among refiners to retain market share in a market with lower consumption and reduced margins between the cost of crude oil and the selling price of petroleum products.

A. Imports of Petroleum Products Have Not Captured a Significant Share of the Market

U.S. imports of refined petroleum products are a very small factor in the domestic market. Import penetration remains slight despite the modest increase in refined products imports in 1984. As shown in Table 1, the sole refined product import category that reflects any meaningful increase is motor gasoline. Imports of distillate fuel oil and residual fuel oil remain well below historic peaks achieved during the 1970s, and residual fuel oil imports actually have declined substantially since 1980. The sole potential cause of complaint is motor gasoline imports.

U.S. imports of motor gasoline, however, have not captured a significant portion of the domestic market. Table 4 sets forth U.S. imports, apparent domestic consumption, and import penetration rates since 1973 for motor gasoline. As indicated, U.S. imports of motor gasoline did not increase substantially until 1983, when they rose from 46.1 to 77.5 million barrels. However, that increase did not result in the capture of a major portion of the U.S. motor gasoline market; import penetration reached only 3.22 percent in 1983, and stood at 4.13 percent in 1984. Even when imports of motor gasoline and blending components used in the production of motor gasoline are combined, import penetration in 1984 reached only 5.6 percent. See Table 5. More recent data dispel any trend toward further increases; imports in the first quarter of 1985 were 8.9 percent lower than in the corresponding period for 1984. In short, U.S. refiners remain in command of the vast bulk of the domestic motor gasoline market.

B. Refinery Closings are the Result of Declining Petroleum Product Demand and the End of Government Subsidies

In any case, the modest increase in gasoline imports occurred well after the refining industry started to decline from its peak levels of performance. Domestic refiners began to experience dislocations as early as 1979, when consumption began to fall. As shown in Table 4, gasoline consumption grew steadily throughout the 1970s to a peak in 1978, after which it declined until 1982 and then rebounded in 1983 and 1984. Despite this decline, demand remains at levels achieved during the early 1970s.

Other indicia of economic performance followed closely these declining trends in consumption. As shown in Table 10, for example, prices for regular motor gasoline and No. 2 home heating oil increased steadily until 1981, and then declined in 1982 and 1983. Similar to the consumption trends, however, price levels remained higher then those attained prior to 1980. In addition, refiners' net income increased steadily throughout the 1970s, peaked in 1980 and declined dramatically from 1980 to 1982.[2]

The lack of time correlation between the problems of U.S. refiners and the more recent increase in imports of motor gasoline demonstrates that there is no causal link between the two. Imports could not be a significant factor because they remained negligible until well after dislocations began. Accordingly, other factors must be the cause of such dislocations.

We believe that problems experienced by some domestic refiners since 1980 can be attributed almost exclusively to two underlying changes in circumstances: (1) the elimination of government price and allocation controls on crude oil and refined petroleum products in January 1981; and (2) the dramatic decline in demand for motor

---

[2] See API, Financial Trends of Leading U.S. Oil Companies, 1968–1983 (October 1984).

gasoline. These fundamental changes have: (a) accelerated the elimination from the marketplace of unnecessary and inefficient refining capacity; and (b) stimulated a competitive struggle between domestic refiners for market share during a period of declining demand.

From the fall of 1974 through the end of 1980, domestic refiners participated in the old oil entitlements and price control programs.[3] The entitlements program extended preferential allocations of crude oil to smaller and generally less efficient refiners. At the same time, government controls on the price of domestically produced crude oil and motor gasoline were established at levels that permitted domestic refiners to enjoy substantial profits. The price control program also provided a disincentive to refined products imports because domestic price levels were generally below world market levels.

The economic distortions and subsidies from these regulations, and the general anticipation of substantial increases in demand, contributed to an unwarranted expansion of U.S. refining capacity. Existing but inefficient refineries were maintained or expanded, while a substantial number of small, comparatively inefficient refineries were constructed.

Since the elimination of these regulatory programs in 1981, U.S. refining capacity has returned to levels attained during the early to mid 1970s. See Table 6. Refinery closings generally reflected management's assessment that operations were no longer economically viable. However, the loss of viability was not the result of import penetration; rather, it reflected the intense competition among efficient domestic competitors to maintain or expand market share in the wake of a decline in demand.

As a result of declining demand, most domestic refiners have been forced to face the reality of either operating at a lower utilization rate or increasing their market share by intense competition to insure continued operations at high levels of utilization. Those refineries unable to adjust have been closed.

C. Independent Refiners Have Been Hurt By the Narrow and Negative Margins Between The Cost of Crude Oil and the Price of Petroleum Products.

The competition for market share has also depressed the price of refined products. Indeed, in many instances this intense competition among integrated oil companies has driven the value of a barrel of finished petroleum products below the level representing the official posted price of crude oil plus necessary transportation and processing costs. In effect, refined products, adjusted for transportation and processing, are often selling at negative margins. Clearly, this economic inversion is not the result of gasoline imports from 3–5 percent of domestic consumption.

This stark reality has generated different problems for the two distinct classes of domestic refiners. For independent refiners, the cost-price squeeze has generated an actual loss because the price of crude oil purchased from third parties represents a real cost to those refiners. For integrated companies, the situation is quite different. The cost of crude petroleum is merely the transfer price between two arms of the same integrated company. Although total profits may be reduced in a weak market, any losses incurred in refining or marketing can be offset by profits earned at the crude production stage.

The failure of crude oil prices to respond promptly and sufficiently to the downturn in refined products demand and price has resulted in a dangerous cost-price squeeze for independent refiners. The sometimes irrational relationship between the value of finished petroleum products and the "cost" of crude oil, which cannot be overcome by refining efficiencies, is perhaps the greatest threat to those firms.

It should be noted that recent trends provide hope that the plight of independent refiners may be alleviated. Crude oil prices have declined considerably in the past year, exhibiting a delayed response to the depressed levels of product prices. Moreover, wholesale motor gasoline prices have been rising steadily since January.[4] Whether these signs are short-term phenomena or a harbinger of an improvement in market conditions, they clearly demonstrate that the market will adjust inevitably to supply/demand realities.

In sum, disclocations in the U.S. refining industry are attributable to a rapid expansion in refining capacity, declining demand for refined products, and the failure of crude petroleum markets to respond promptly to falling refined product prices. These three factors have accentuated the historical competitive disadvantage of U.S. independent refiners: their lack of crude petroleum production, a factor that allows integrated refiners to remain profitable in weak markets.

---

[3] See 10 C.F.R. Section 211.67.

[4] See EIA Weekly Petroleum Status Report, pp. 18–20, May 17, 1985.

Accordingly, there is no basis to conclude that imports of refined petroleum products constitute a significant factor in the problems the domestic refining industry is now facing. Moreover, there is no reason to believe that broad-based action to protect domestic independent refiners from import competition would significantly enhance their economic position. So long as crude oil prices are effectively at higher levels than finished product prices, the independent refiners' position will remain precarious. If imports of finished products are controlled, or made uneconomic, all domestic product prices would rise, but the price of crude oil would also move higher. Thus, over time, the relative values of the crude oil and finished products would remain fairly constant, only at higher levels for all American consumers.

III. REFINING CAPACITY REMAINS MORE THAN ADEQUATE

Despite refinery closings the U.S. has, since 1980, enjoyed substantial excess refinery capacity. See Table 1. Although U.S. refinery capacity throughout the 1970s fell short of the domestic demand for petroleum products, reductions in demand since that time have outpaced elimination of refining capacity. From 1979 to 1984, reductions in operable refining capacity totalled 1.3 million barrels per day. Yet, during this same period, the decline in product demand exceeded 2.8 million barrels per day. Accordingly, even in 1984, the U.S. maintained operable refining capacity of more than 400,000 barrels per day in excess of its total demand for refined products. See Table 2.

This excess refinery capacity provides additional security against any possible disruptions of product imports. In every year since 1979, U.S. excess or unused refining capacity has been far above the level of product imports. In 1984, the U.S. refining industry maintained excess capacity of more than 4 million barrels per day. This exceeded total product imports by more than 2 million barrels per day. See Table 1. Thus, even if all petroleum product imports were cut-off, which is highly unlikely, the U.S. could refine the volumle of products imported and still have more than 2 million barrels per day of excess refinery capacity. Under these circumstances, it is difficult to understand how U.S. economic or national security is being threatened by the drop in refinery capacity that occurred in the early 1980s.

There have been similar reductions in total operational refining capacity in other countries. Since 1979, most of the industrial democracies, including France, Italy, Germany and Japan have experienced major cut-backs. Worldwide, we believe that the reductions in capacity from 1980–1985 exceed the additions to refining capacity in such nations as Saudi Arabia should not be viewed as net additions; rather, this new capacity must be measured against the elimination of substantial uneconomic refinery capability in many producing and consuming nations.

Finally, the potential additions to capacity from refineries not yet built cannot be the basis for imposition of import restrictions and do not pose any immediate threat to U.S. refiners. It is speculative to predict (1) how much additional capacity will be built in OPEC nations, (2) when such capacity could be brought on line, and (3) whether any of the refined products will be exported to the U.S. If history is any guide, much of the planned increases in refinery capacity will never be constructed, and much of it may only replace capacity that has been destroyed in the Iran/Iraq war.

Even if new OPEC capacity is brought on line, it is not likely that U.S. markets will receive the major volume portions of the products refined. A recent study conducted for the Department of Energy by the East-West Center, "The Changing Structure of World Refining Industry: Implications for U.S. Energy Security," concludes that "the U.S. market is not the most economical market for [Persian] Gulf exporters," and that large product exports to the U.S. will occur only if other consuming nations place barriers on product imports. *See* p. 53. Accordingly, the U.S. should focus its efforts on preventing other nations from imposing barriers to import of petroleum products, rather than imposing barriers of its own.

IV. ADVERSE CONSEQUENCES OF RESTRICTIONS ON REFINED PRODUCT IMPORTS

The imposition of tariffs and/or quotas on U.S. imports of crude oil or refined petroleum products would have severe adverse consequences on competition in the petroleum industry, on the domestic economy as a whole, and on U.S. foreign policy.

As set forth above, current conditions in the U.S. petroleum industry may be more a product of market forces than at any time in recent history. Deregulation has allowed the market to determine the appropriate demand level and price for refined products in the United States.

Import restrictions would be another form of control over the now deregulated market. A return to a controlled market would distort market forces and have ad-

verse consequences throughout the U.S. economy. The immediate impact, of course, would be to raise product prices for consumers and consuming industries. The long-run consequences, however, could be even more severe.

As we have indicated, the unrestricted availability of imports is the principal competitive tool of the independent marketer, who has neither crude oil production nor refining capability. Product import restrictions, whether volumetric or monetary, impose substantial barriers to the ability of any independent marketer to compete with refiners. In many areas, these barriers could drive the independent marketer out of the market entirely.

Without availability of imported product, marketers must rely entirely on domestic refiners, whose economic interest is to increase the wholesale price of refined products. Even worse, in many instances it is in the interest of domestic refiners to reduce or eliminate sales to independent marketers. It should be noted that in the spring of 1973—before the Arab Oil Embargo—the availability of imported petroleum products dropped sharply; as a result, the supplies available to independent marketers were sharply restricted by domestic refiners. This led the Federal Government to impose the voluntary petroleum allocation program in May, 1973 and the Senate to pass the Emergency Petroleum Allocation Act in June, 1973. Based upon the bitter experience of the past, we are certain that product import restrictions will encourage refiners to curtail sales to independent marketers, making it far more difficult for us to secure economically priced products; this will be followed by strong pressures for a new mandatory allocation program.

Import quotas or tariffs will also unquestionably harm the national economy, because of the pervasive use of petroleum products by all sectors of commerce and industry. Petroleum products represent one of the largest elements of the Consumer Price Index.[5] Accordingly, a ten percent increase in the cost of petroleum products (approximately $3 per barrel) would produce an inflationary surge through the entire economy as well as a considerable increase in unemployment. The steady-state effect of a ten percent in the price of petroleum products would increase the GNP deflator by about 0.5 percent, decrease real GNP by approximately 0.5–0.7 percent, and increase unemployment by about 0.2 percent. Clearly, a substantial increase in the price of petroleum imports will promptly raise the price of all domestic petroleum products, all competing energy sources, and indeed all goods and services.

Studies of the economic impact of tariffs on fees on imports of crude petroleum illustrate the macroeconomic effect of tariffs and/or quotas on imports of refined petroleum products. An analysis performed by the Petroleum Industry Research Foundation [6] in April 1982 projected that an import fee of $5.00 per barrel would generate an increased cost of $29 billion to oil consumers in its first full year as well as an increase in the inflation rate of approximately 1.3 percentage points. Similarly, an April 1982 study by the Congressional Budget Office [7] estimated that a $5.00 per barrel tariff would increase the consumer price index by between 0.8 and 1.0 percent, the unemployment rate by 0.1 to 0.2 percent (between 100,000 and 200,000 persons), and reduce constant dollar gross national product by between 0.5 and 0.7 percent. Although the Congressional Budget Office believed that these effects would diminish after time, the impact clearly would be significant.

An increase in petroleum product prices resulting from tariffs and/or quotas therefore would fuel inflationary trends that have only recently moderated. Moreover, increased prices could slow the recent growth enjoyed by the U.S. economy as a whole and further undermine the competitiveness of domestic industries vis-a-vis their foreign counterparts. All of these general economic ramifications counsel against the imposition of restraints on imports of crude oil or refined products.

Finally, a fee or quota on petroleum product imprts would be contrary to U.S. foreign policy objectives, and ultimately would damage national security. The primary sources of U.S. imports of crude oil and refined petroleum products are allies of the United States. In 1984, for example, our major sources of crude oil and refined products imports were Brazil, Venezuela, the Netherlands, Mexico, the United Kingdom, China and Canada. These countries are U.S. allies, and are located in regions critical to U.S. national security; and excluding Venezuela, only 0.8 percent of all U.S. product imports were of OPEC origin. Maintenance of amicable relations with these

---

[5] Energy prices directly represent approximately 11.5 percent of the Consumer Price Index, and account for 32 percent of the producer price index for crude materials, 15 percent of the producer price index for semi-finished goods, and 12 percent of the producer price index for finished goods.

[6] Petroleum Industry Research Foundation, Inc.: The Oil Import Fee Issue, April 1982.

[7] CBO, Oil Import Tariffs: Alternative Scenarios and Their Effects, Staff Working Paper (April 1982).

countries is important for political, economic and strategic reasons. The alienation of these countries through the imposition of restraints on imports of crude oil or refined petroleum products could provoke adverse political action as well as retaliatory trade actions against other sectors of our economy, such as agriculture. Such provocation would undermine our foreign policy and trade policies, and could seriously undermine our national security.

V. CONCLUSION

The imposition of tariffs and/or quotas on imports of crude oil or refined petroleum products is neither warranted nor wise. Import restraints would not address the principal cause of the dislocations now being experienced by the domestic refining industry. Restraints are not justified by economic or security considerations, yet restraints would have consequences threatening competition in the petroleum industry, as well as U.S. national security and economic growth. For these reasons, the Coalition of Independent Marketers urges the rejection of protectionist legislation that would impose barriers to petroleum imports.

Thank you very much.

Attachment A

COALITION OF INDEPENDENT MARKETS

The Empire State Petroleum Association represents the independent gasoline distributors and home heating oil marketers of New York State.

The Independent Fuel Terminal Operators Association is comprised of 16 companies which own and control terminals capable of receiving ocean-going tankers. None is affiliated with a major integrated oil company. Members of the Association are independent marketers of No. 2 fuel oil, No. 6 fuel oil, gasoline and other petroleum products.

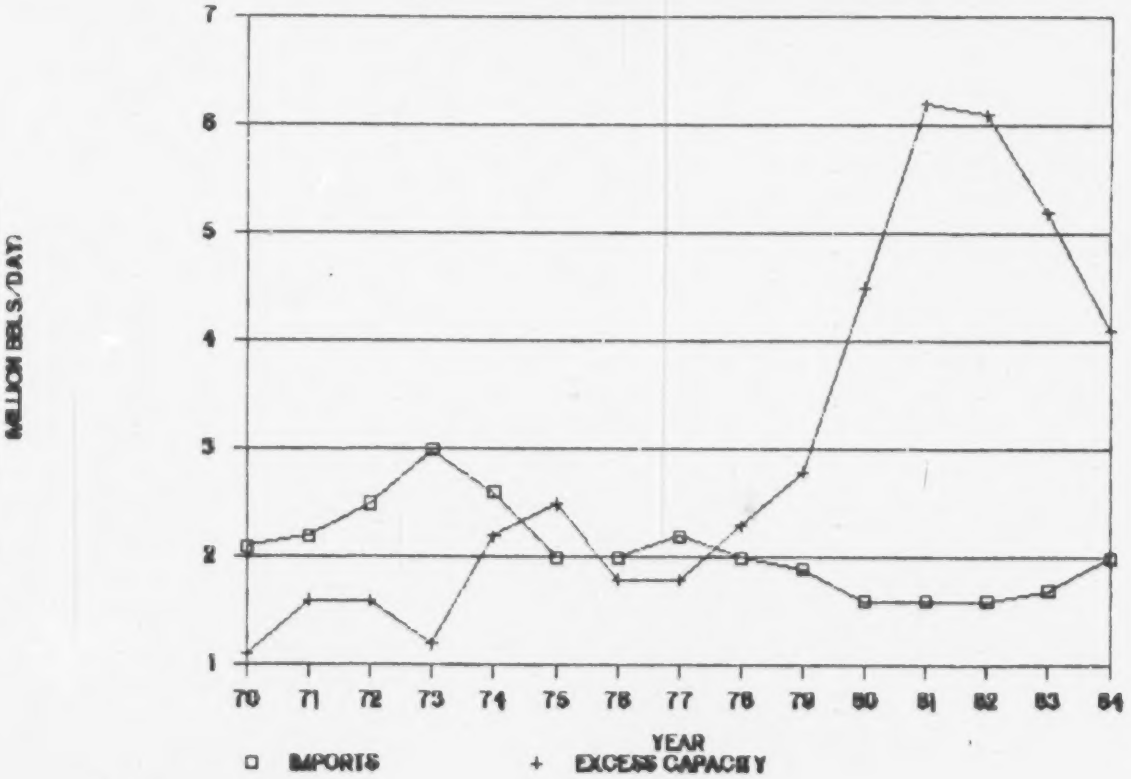
The Independent Gasoline Marketers' Council is a trade association of non-branded independent retailers of motor gasoline. Council members operate groups of retail stations under their own brand name and operate in 45 of the 50 states.

The New England Fuel Institute is an association of 1,132 independent retail and wholesale home heating oil distributors throughout the six New England states.

The Society of Independent Gasoline Marketers of America (SIGMA) is a trade association comprised of approximately 250 independent marketers and private band of chain retailers of motor fuels. SIGMA members operate in 49 of the 50 States through over 15,000 retail outlets and their sales represent between 10 and 15 percent of total retail sales of motor fuels in the United States.

CHART 1

EXCESS CAPACITY & PETRO IMPORTS



Source: See Table 1.

CHART 2

US REFINERY CAPACITY &

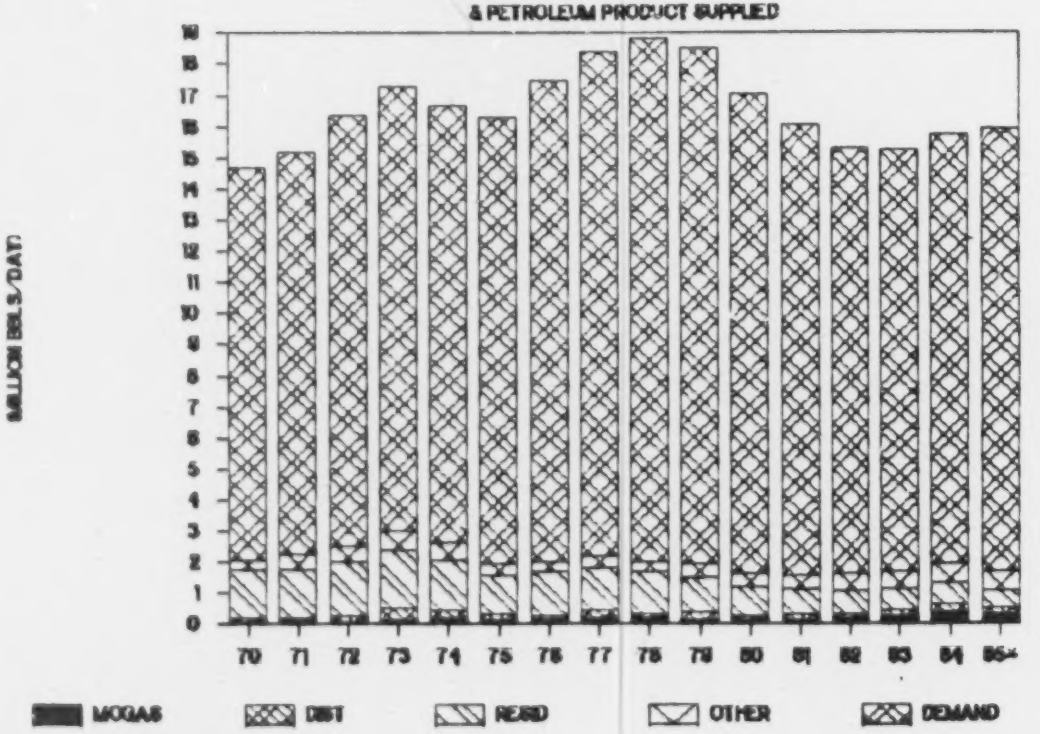
PETROLEUM PRODUCTS SUPPLIED

Source: See Table 2.

CHART 3

US IMPORTS-PETRO PRODUCTS

& PETROLEUM PRODUCT SUPPLIED



* First Quarter 1985.

Source: See Table 3.

TABLE 1.—U.S. EXCESS REFINING CAPACITY AND PETROLEUM PRODUCTS IMPORTS

[Thousand barrels/day]

	Petroleum products imports	Excess refining capacity [1]
1970	2,095	1,151
1971	2,245	1,660
1972	2,532	1,596
1973	3,012	1,240
1974	2,635	2,229
1975	1,951	2,519
1976	2,026	1,821
1977	2,193	1,796
1978	2,008	2,308
1979	1,937	2,793
1980	1,646	4,507
1981	1,599	6,151
1982	1,625	6,116
1983	1,722	5,174
1984	1,979	4,082

[1] Excess Capacity—Operable Capacity—Crude Runs (Table 1a).

Note: Capacity data as of January 1.

Source: American Petroleum Institute, Basic Petroleum Data Book, Volume V, Number 2 (May, 1985) and Petroleum Supply Monthly (December, 1984).

TABLE 1a.—EXCESS REFINING CAPACITY

[Thousand barrels/day]

	Operable capacity [1]	Crude refinery runs	Excess capacity
1970	12,021	10,870	1,151
1971	12,860	11,200	1,660
1972	13,292	11,696	1,596
1973	13,671	12,431	1,240
1974	14,362	12,133	2,229
1975	14,961	12,442	2,519
1976	15,237	13,416	1,821
1977	16,398	14,602	1,796
1978	17,047	14,739	2,308
1979	17,441	14,648	2,793
1980	17,988	13,481	4,507
1981	18,621	12,470	6,151
1982	17,890	11,774	6,116
1983	16,859	11,685	5,174
1984	16,137	12,055	4,082

[1] Includes operating capacity plus operable shutdown capacity; capacity data as of January 1.

Source: American Petroleum Institute, Basic Petroleum Data Book, Volume V, No. 2 (May 1985) and Petroleum Supply Monthly (December 1984).

TABLE 2.—U.S. REFINERY CAPACITY AND TOTAL PETROLEUM PRODUCTS SUPPLIED

[Thousand barrels per day]

	Petroleum products supplied	Crude oil distillation capacity [1]
1974	16,652	14,362
1975	16,332	14,961
1976	17,461	15,237

TABLE 2.—U.S. REFINERY CAPACITY AND TOTAL PETROLEUM PRODUCTS SUPPLIED—Continued

[Thousands barrels per day]

	Petroleum products supplied	Crude oil distillation capacity [1]
1977	18,431	16,398
1978	18,847	17,047
1979	18,516	17,441
1980	17,056	17,988
1981	16,058	18,621
1982	15,296	17,890
1983	15,231	16,859
1984	15,708	16,137

[1] Includes operating capacity plus operable shutdown capacity; capacity data as of January 1.

Source: American Petroleum Institute, Basic Petroleum Data Book, Volume V, Number 2 (May, 1985) and Petroleum Supply Monthly (December, 1984).

TABLE 3.—U.S. IMPORTS OF MOTOR GASOLINE, DISTILLATE FUEL OIL AND RESIDUAL FUEL OIL, AND TOTAL PETROLEUM PRODUCT SUPPLIED, 1970–1984

[1,000 barrels per day]

Year	Motor gasoline [1]	Distillate fuel oil	Residual fuel oil	Total imports of petroleum products	Total petroleum products supplied
1970	67	147	1,528	2,095	14,697
1971	59	153	1,583	2,245	15,213
1972	68	182	1,742	2,525	16,367
1973	134	392	1,853	3,012	17,308
1974	204	289	1,587	2,635	16,652
1975	184	155	1,223	1,951	16,322
1976	131	146	1,413	2,026	17,461
1977	217	250	1,359	2,193	18,431
1978	190	173	1,355	2,008	18,847
1979	181	193	1,151	1,937	18,516
1980	140	142	939	1,646	17,056
1981	181	173	800	1,599	16,058
1982	239	93	776	1,625	15,296
1983	294	174	699	1,722	15,231
1984	370	270	674	1,979	15,708
1985 [1]	317	193	585	1,700	[3] 15,900

[1] Includes blending components.
[2] Quarterly average based on January and February monthly and March weekly statistics.
[3] Rounded.

Source: U.S. Dept. of Energy, Energy Information Administration, Annual Energy Review (1983); Petroleum Supply Monthly (Dec. 1984); Weekly Petroleum Status Report (May 23, 1985); American Petroleum Institute, Basic Petroleum Data Book, Volume V, Number 2 (May 1985).

TABLE 4.—U.S. MOTOR GASOLINE PRODUCTION, CONSUMPTION, AND IMPORT PENETRATION, 1973–1984

[1,000 barrels]

Year	Shipments [1]	Exports [2]	U.S. imports [2]	Apparent U.S. consumption	Import penetration ratio (percent)
1973	2,388,560	1,632	17,330	2,404,258	0.72
1974	2,312,640	644	33,743	2,345,739	1.44
1975	2,369,580	152	22,740	2,392,168	.95
1976	2,500,615	175	8,073	2,508,513	.32
1977	2,540,765	265	23,005	2,563,505	.90

TABLE 4.—U.S. MOTOR GASOLINE PRODUCTION, CONSUMPTION, AND IMPORT PENETRATION, 1973–1984—Continued

[1,000 barrels]

Year	Shipments [1]	Exports [2]	U.S. imports [3]	Apparent U.S. consumption	Import penetration ratio (percent)
1978	2,636,395	207	18,724	2,654,912	.71
1979	2,501,710	153	23,411	2,524,968	.93
1980	2,350,600	493	18,225	2,368,332	.77
1981	2,348,045	697	32,485	2,379,833	1.36
1982	2,322,495	12,035	46,097	2,356,557	1.95
1983	2,330,525	4,162	77,491	2,403,854	3.22
1984	2,340,380	2,576	101,060	2,438,864	4.14

[1] Annualized from daily averages, adjusted for daily average stock withdrawals.
[2] Current exports are classified under Schedule B No. 475.2520. It is a compilation of three prior existing categories. From 1974 through 1977, exports were classified under Schedule B Nos. 332.1015 (aviation gasoline, transferred in part to 475.2520). Prior to 1974, exports were classified under Schedule B Nos. 332.1010 (aviation gasoline, 100 octane and over), 332,1020 (aviation gasoline, less than 100 octane), and 332.1030. Statistics for 1973–77 are probably overstated.
[3] TSUS No. 475.2520

Source: U.S. Dep't of Energy, Energy Information Administration, Petroleum Supply Annual (1983) and Petroleum Supply Monthly (Jan. 1985); U.S. Dep't of Commerce, Bureau of the Census.

TABLE 5.—FINISHED MOTOR GASOLINE AND MOTOR GASOLINE BLENDING COMPONENTS,[1] U.S. PRODUCTION, CONSUMPTION, AND IMPORT PENETRATION

[1,000 barrels per day]

Year	Total production	Imports [2]	Stock withdrawal	Refinery inputs [4]	Exports	Apparent U.S. consumption [5] [6]	Import penetration ratio (percent)
1979	6,852	181	2	(7)	0	7,035	2.6
1980	6,506	140	—66	(7)	1	6,579	2.1
1981	6,405	181	[3] 28	156	2	6,456	2.8
1982	6,338	239	49	172	20	6,434	3.7
1983	6,340	294	[3] 58	134	10	6,548	4.5
1984	6,466	370	—57	120	6	6,653	5.6

[1] Motor gasoline blending components as reported by DOE.
[2] Imports based on DOE statistics, which vary from Dept. of Commerce statistics due to different reporting methods.
[3] In January 1981 and 1983, numerous respondents were added to surveys affecting stocks reported and stock withdrawal calculations.
[4] Refinery input of motor gasoline blending components equal refinery input minus refinery output; Refinery inputs of finished motor gasoline are reported by DOE on a net basis under refinery production.
[5] Totals may not equal sum of components due to independent rounding.
[6] Beginning in 1981, apparent consumption is probably understated, and consequently ratios overstated, due to negative product supplied balances of motor gasoline blending components. According to DOE, negative balances may occur for a number of reasons. A primary cause for blending components is that they have entered the primary supply channels with their production not having been reported.
[7] Not available.

Source: U.S. Dept. of Energy, Energy Information Administration, Petroleum Supply Monthly (Jan. 1983–Dec. 1984).

TABLE 6.—U.S. CRUDE PETROLEUM REFINING CAPACITY, REFINERY RUNS, AND CAPACITY UTILIZATION 1973–1984

[1,000 barrels per day]

Year	Capacity [1]	Refinery runs	Utilization (percent)
1973	13,671	12,431	90.9
1974	14,362	12,133	84.5
1975	14,961	12,442	83.2
1976	15,237	13,416	88.0
1977	16,398	14,602	89.0
1978	17,047	14,739	86.5
1979	17,441	14,648	84.0
1980	17,988	13,481	75.0

TABLE 6.—U.S. CRUDE PETROLEUM REFINING CAPACITY, REFINERY RUNS, AND CAPACITY UTILIZATION 1973–1984—Continued

[1,000 barrels per day]

Year	Capacity[1]	Refinery runs	Utilization (percent)
1981	18,621	12,470	67.0
1982	17,890	11,774	65.8
1983	16,859	11,685	69.3
1984	16,137	12,055	74.7

[1] Capacity as of January 1; includes operating capacity plus operable shutdown capacity.

Source: American Petroleum Institute, Basic Petroleum Data Book, Vol. V, No. 2 (May 1985); U.S. Dep't of Energy, Energy Information Administration, Petroleum Supply Monthly (Dec. 1984).

TABLE 7.—U.S. REFINERIES, 1973–1984

Year	Operating	Shutdown [1]	Total
1973	253	28	281
1974	257	27	284
1975	262	28	290
1976	265	22	287
1977	273	18	291
1978	290	12	302
1979	301	10	311
1980	311	8	319
1981	315	9	324
1982	254	47	301
1983	233	25	258
1984	214	33	247

[1] Prior to 1980, included refineries capable of operation and inoperable facilities needing extensive reconditioning. From 1980 to 1984, included only operable shutdown.

Source: American Petroleum Institute, Basic Petroleum Data Book, Vol. V, No. 1 (Jan. 1985).

TABLE 8.—*U.S. crude oil imports,*[1] *1973–1984*

[1,000 barrels per day]

1973	3,244
1974	3,477
1975	4,105
1976	5,287
1977	6,615
1978	6,356
1979	6,519
1980	5,263
1981	4,396
1982	3,488
1983	3,329
1984	3,402

[1] Includes crude oil for storage in the Strategic Petroleum Reserve.

Source: U.S. Dep't. of Energy, Energy Information Administration, Petroleum Supply Monthly (Dec. 1984).

TABLE 9.—U.S. IMPORTS OF GASOLINE, BY COUNTRY, 1980–1984

[In barrels]

Country of exportation	1980	1981	1982	1983	1984
Brazil			3,868,192	7,590,276	12,553,873
Canada	3,436,964	3,779,825	3,536,791	7,536,968	9,409,936
Indonesia	1,810,598	[1] 68,643			

TABLE 9.—U.S. IMPORTS OF GASOLINE, BY COUNTRY, 1980–1984—Continued

[In barrels]

Country of exportation	1980	1981	1982	1983	1984
Italy	1,152,870	3,112,822	1,643,324	3,070,897	6,556,372
Netherlands	590,823	6,092,091	11,374,829	15,380,505	14,699,948
Netherlands Antilles	1,007,673	2,689,661	3,571,413	4,974,005	3,672,629
Peoples Republic of China	2,558,675	6,766,684	9,558,862	10,371,483	10,453,208
Trinidad	5,388,588	3,257,604	3,129,886	2,155,750	697,464
Venezuela			1,388,306	11,667,668	22,416,610
Other	2,778,967	6,717,978	8,025,209	14,743,422	20,599,659
Total	18,725,158	32,485,308	46,096,812	77,490,974	101,059,699

[1] Foreign Trade Zone nonprivileged status.

Source: U.S. Department of Commerce, Bureau of the Census.

TABLE 10.—COMPARISON OF U.S. REFINER CRUDE PETROLEUM ACQUISITION COST AND REFINED PRODUCTS PRICES, 1973–1983

[In U.S. dollars]

Year	Refiner acquisition cost [1]		Refined product prices [2]	
	Domestic	Imported	Regular gasoline [3]	No. 2 heating oil [4]
1973	$4.17	$4.08	$0.3882	$0.2275
1974	7.18	12.52	.5241	.3601
1975	8.39	13.93	.5722	.3898
1976	8.84	13.48	.5947	.4180
1977	9.55	14.53	.6307	.4737
1978	10.61	14.57	.6571	[5] .5080
1979	14.27	21.67	.8779	.7280
1980	24.23	33.89	1.2172	1.0097
1981	34.33	37.05	1.3110	1.2466
1982	31.22	33.55	1.2220	1.2086
1983	28.87	29.30	1.1570	1.1012

[1] Expressed in U.S. dollars per barrel.
[2] Expressed in U.S. dollars per gallon.
[3] Service Station price, including taxes.
[4] Including taxes, price for 1978 estimated.
[5] Estimated.

Source: American Petroleum Institute, Basic Petroleum Data Book, Vo. V, No. 1 (Jan. 1985) (compiled from various sources).

EXXON CO., U.S.A.,
Houston, TX, June 27, 1985.

Hon. SAM M. GIBBONS,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN GIBBONS: In response to your recent request for comments on certain tariff and trade bills, Exxon Company U.S.A. respectfully requests that the attached statement be included in the record with reference to H.R. 2354. Exxon submitted this statement for the record of the June 4 Senate Energy Subcommittee's oversight hearing on petroleum product imports.

Exxon believes that H.R. 2354 is a controversial bill which should not be included in any miscellaneous tariff and trade package reported out by the Trade Subcommittee. Testimony given by several other organizations in opposition to certain provisions of H.R. 2354 at the June 4 Senate Energy Subcommittee's hearing as well as at the June 6 House Ways and Means Trade Subcommittee's hearing on natural resource subsidy legislation substantiates our belief that H.R. 2354 is a controversial bill.

Our statement provides the underlying rationale for our position that additional tariffs and/or quotas or other quantitative restrictions on petroleum product im-

ports are not justified at this time. I hope that you and the members of the Subcommittee on Trade find this information useful in your deliberations.

Sincerely,

ROBERT J. DOYLE, *Vice President.*

Attachment.

EXXON COMPANY, U.S.A. STATEMENT ON PETROLEUM PRODUCTS IMPORTS SUBMITTED TO SENATE ENERGY AND NATURAL RESOURCES COMMITTEE, SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION, JUNE 4, 1985

Exxon appreciates the opportunity to offer its comments to the Senate Energy and Natural Resources Subcommittee on Energy Regulation and Conservation regarding the need for added protection for U.S. refiners against petroleum product imports.

We do not see at this time justification for additional tariffs and/or the imposition of quotas or other quantitative restrictions on U.S. petroleum product imports. Overall, we find few tariff barriers prohibiting imports of petroleum products into other major consuming countries. Current levels of U.S. refining capacity do not lend support to arguments that there is a near-term threat to national security.

However, recognizing that circumstances could change, we believe it is appropriate to continue to monitor the product import situation closely. If unfair trade practices are shown to exist at some time in the future, existing U.S. statutes already provide adequate authority for the U.S. government to take offsetting protective measures. No new protective legislation is necessary. We do, however, support adjustments to the existing tariff schedules to remove uneven treatment of motor gasoline blendstocks, and to stop circumvention of existing tariffs on alcohol imported in to the U.S. for use in motor fuel.

U.S. PRODUCT IMPORTS

As shown in Table 1 below, current U.S. net product import levels are not high by historical standards. In 1973, net imports represented about 16 percent of demand. This declined to a low of about 7 percent in 1982, and currently accounts for about 9 percent.

Since 1973, there has been a change in the product import mix. In 1973, most product imports were distillates and heavy fuel oil. Today, motor gasoline and gasoline blendstocks represent a more significant share, while distillate imports have declined. Fuel oil imports also have declined, reflecting reduced fuel oil demand for electricity generation and industrial boiler fuel.

TABLE 1.—NET U.S. PETROLEUM PRODUCT IMPORTS

[Million barrels per day]

	1973	1982	1984
Motor gasoline/blendstocks	0.2	0.2	0.4
Middle distillates	0.7	.1	.3
Fuel oil	1.8	.6	.5
Total products	2.8	1.1	1.4
Percent of demand	16	7	9

Exxon's petroleum product imports as a percent of supply are not significant. In 1984, total net imports were about 6 percent, with negligible imports of finished clean products such as motor gasoline and distillates.

In recent congressional testimony, petroleum product import data on both a gross and net basis have been used. Currently, the U.S. exports about 500 thousand B/D of petroleum products, mostly distillate, heavy fuel oil, and petroleum coke. Most of these exports could be readily converted to domestic use. As a result, we believe *net* product imports are a more meaningful measure.

SOURCES OF PRODUCT IMPORTS

Proponents of import protection tend to link the recent increase in motor gasoline/gasoline blendstock imports and distillate imports with the new Middle Eastern and African refining capacity. Contrary to the concerns being expressed, most of

this increase has come from Latin America, not from the Middle Eastern and African (MEAF) refineries.

TABLE 2.—NET U.S. PETROLEUM PRODUCT IMPORTS

[Thousand barrels per day]

	Gasoline/blendstocks		Distillates	
	1982	1984	1982	1984
Latin America	3	106	2	86
Caribbean	81	82	93	111
China/Romania	33	54	.....	.....
Europe	31	42	(18)	30
Canada	20	17	10	14
MEAF	12	15	.....	25
Total	220	370	55	280
Percent of demand	3	5	2	7

Net imports of motor gasoline/blendstocks have increased since 1982 from 220 thousand B/D, representing 3 percent of demand, to 370 thousand B/D, or 5 percent of demand in 1984. The U.S. imports motor gasoline from over 20 countries. During 1984, 106 thousand B/D, or nearly 30 percent of the total, came from Latin American sources, principally Venezuela, Brazil, and Mexico. Another 82 thousand B/D, or more than 20 percent, came from refineries owned by U.S. companies located in the Caribbean. Although not major suppliers of the total range of products, China and Romania supplied another 15 percent. MEAF refineries accounted for 15 thousand B/D, or only about 4 percent of the total.

Net distillate imports increased from 55 thousand B/D, representing 2 percent of demand in 1982, to 280 thousand B/D, or 7 percent of demand in 1984. Like motor gasoline, they originate from a variety of sources. The 1982 levels were at an all time low because of warm weather in the U.S. In 1984, on the other hand, distillate imports were required to supplement short U.S. supplies when unusually harsh winter weather early in the year increased demand and significantly curtailed U.S. refinery operations. During 1984, almost 200 thousand B/D, or nearly 70 percent of the total, came from Latin American and Caribbean sources. There were no net imports from MEAF refineries in 1982, and only about 25 thousand B/D during 1984.

RESTRICTIONS IN OTHER IMPORTING COUNTRIES

We do not believe that the current international tariff structures represent barriers of sufficient significance to justify raising U.S. tariffs. There are few restrictions to regional international flows of petroleum products. The exceptions are typically for a specific product to individual countries; such as finished motor gaoline to Japan and France.

Both Europe and Japan have higher import duties than the U.S. However, the European Community has been waiving the duties from most countries except the U.S., Canada, and most Soviet bloc sources. While the Japanese duty on gasoline appears high relative to that in the U.S., the differential between crude and gasoline tariffs is about the same. Although the Japanese government does not formally prohibit them, informal suasion has resulted in no motor gasoline imports. On the other hand, the low Japanese tariff on naphtha relative to crude has resulted in significant imports of naphtha for petrochemical feedstocks.

In 1984, Japan's net product imports accounted for 15 percent of its total petroleum demand, compared with only about 9 percent for the U.S. In Europe, based on data available for three quarters of 1984, net product imports accounted for 11 percent of total product demand.

NATIONAL SECURITY IMPLICATIONS

Some have expressed concern that further U.S. refining capacity rationalization could threaten national security. The question of national security may be relevant at some future time, but the current level of U.S. refining capacity and its utilization suggests that it is not an issue at present. Even though capacity has declined by almost 2.5 million B/D from peak levels in 1981, the first year of U.S. price and allocation decontrol, there is still a large surplus. During 1984, U.S. average opera-

ble capacity was about 16 million B/D, well above crude run levels in the 12 million B/D range. Average operable refining capacity utilization in 1984 was only 75%.

TABLE 3.—U.S. REFINING CAPACITY/UTILIZATION

	1981	1984
Average capacity (million barrels per day):		
Operable	18.3	16.0
Operating	17.1	14.6
Average utilization (percent):		
Operable	68	75
Operating	73	83

The current refining capacity is well above the level needed to run the combined total of U.S. domestic crude production (8.8 million B/D) and current maximum SPR drawdown (2.3 million B/D) of 11.1 million B/D. Even with further U.S. refining capacity rationalization, there will likely be adequate capacity to run domestic crude production plus the planned maximum SPR drawdown of 4.5 million B/D. Additionally, spare refining capacity in countries tributary to the U.S., such as the Caribbean, as well as in Europe, would provide possible sources of additional product if needed in an emergency.

LEGAL REMEDIES

Should circumstances at any time indicate unfair trade practices by foreign country governments or a legitimate threat to U.S. national security, adequate remedial authorities already are available to the President and Congress.

The General Agreement on Tariffs and Trade (GATT) establishes internationally-accepted remedies to protect against unfair trade practices. These principles are incorporated into existing U.S trade statutes which provide protection against dumping and foreign export subsidies. Imports can be restricted to protect U.S. industries from "serious injury," or the threat of "serious injury" if imports are the cause. Also, imports can be restrained as necessary if national security is threatened. As a result, no new legislation is needed for this purpose.

DISADVANTAGES OF TRADE RESTRICTIONS

Trade restrictions would damage the U.S. economy through increased consumer petroleum prices, higher inflation, lower real GNP, and higher unemployment. Increased product prices would place U.S. industries at a competitive disadvantage in international markets.

Further, trade restrictions could invite reciprocal foreign reaction. The probable outcome is that everyone would lose—the volume of world trade would decline, leading to even greater losses in economic efficiency and welfare. Resulting lower foreign GNP would affect debt repayment ability.

TECHNICAL CORRECTIONS TO EXISTING TARIFF SCHEDULES

A separate but related issue concerns the tariff treatment of motor gasoline blendstocks and alcohol. Current anomalies in the schedule allow some motor gasoline blendstocks to enter with a duty of 0.25¢/gallon, while finished gasoline enters at 1.25¢/gallon. We believe the addition of a motor fuel blendstock category in the tariff schedule, with the same duty as motor fuel, is an appropriate means of correcting this anomaly.

Further, we believe that tariffs on imported gasoline/alcohol blends should be structured to tax the components of the product—the gasoline component at the gasoline rate and the alcohol component at the alcohol rate. Today, pure alcohol imported for fuel is subject to a 60¢/gallon duty; whereas alcohol imported in a mixture with gasoline is dutied at the motor fuel rate—1.25¢/gallon. As a result, substantial quantities of gasoline/alcohol mixtures are entering the U.S., primarily from Brazil. We believe modification of the Tariff Schedule provisions to impose a duty on gasoline/alcohol mixtures at the applicable component rates is the approriate means of closing this loophole.

SUMMARY

Exxon does not at this time see a justification for additional tariffs and/or the imposition of quotas or other quantitative restrictions on the importation of petroleum products into the U.S. We suggest continued monitoring of the product import situation to assure that a national security threat does not develop at some time in the future, and to guard against unfair trade practices by foreign country governments. Also, we support adjustments to existing tariff schedules to remove uneven treatment of mogas blendstocks, and to stop circumvention of existing tariffs on alcohol imported into the U.S. for use as motor fuel.

In general, Exxon supports free trade as being the most efficient means of promoting a competitive, economically viable domestic refining industry. Inappropriate or premature use of protective tariffs or quotas to restrict petroleum product imports may invite reciprocal foreign reaction. In addition, protective tariffs or quotas would harm the U.S. economy by increasing consumer prices, increasing inflation, and reducing real GNP.

STATEMENT OF THE INDEPENDENT FUEL TERMINAL OPERATORS ASSOCIATION

The Independent Fuel Terminal Operators Association ("IFTOA") submits this statement pursuant to the request for comments on certain tariff and trade bills issued by the Subcommittee on Trade of the Committee on Ways and Means. IFTOA opposes inclusion of H.R. 2354 in any miscellaneous tariff measures considered by the Subcommittee. H.R. 2354 would increase significantly the tariff on imported motor fuel and motor fuel blendstocks, thereby injuring independent marketers of petroleum products, the consumers who rely on those marketers, and the American economy.

IFTOA is an association of firms which own and operate terminals along the East Coast capable of receiving oceangoing tankers. None of IFTOA's members is affiliated with a major integrated oil company. Members of the association are independent marketers of gasoline, No. 2 fuel oil, No. 6 fuel oil and other petroleum products. A list of IFTOA's members is included in Attachment A.

First, enactment of H.R. 2354 would increase the cost of gasoline to independent marketers by 8–10 cents/gallon on the first 3 billion gallons imported in any fiscal year, and by approximately 18–20 cents/gallon on imported volumes above 3 billion gallons. These cost increases would apply to imported gasoline and domestically produced supplies, because imported gasoline is the marginal source of supply. Cost increases of this magnitude would place severe pressure on the ability of independent marketers to operate at a profit, and could force many independents out of the gasoline business entirely.

Second, enactment of H.R. 2354 also would injure customers of independent marketers. Initially, prices of gasoline to these customers will rise significantly. This would be followed by increases in prices of other petroleum products, such as home heating oil and residual fuel, as independent marketers attempt to recoup profits on other products. Ultimately, since many independents would be unable to compete, customers will lose their choice of supplies, and the price levels will remain higher as a result of diminished competition.

Third, enactment of H.R. 2354 will increase the rate of inflation and unemployment, and will slow economic growth. Increased petroleum product prices will ripple through the economy and could fuel the inflationary trends that have only recently moderated.

Fourth, enactment of H.R. 2354 could impair U.S. relations with several allies and neighbors, including Canada, Venezuela, the Netherlands and Brazil, from whom gasoline imports have emanated. Retaliation on other products by our trading partners is also possible to counter an increased tariff on gasoline.

For each of these reasons, H.R. 2354 should be rejected by the Subcommittee on Trade. IFTOA's reasons for urging rejection are further detailed in the attached statement, which was submitted to the Senate Committee on Energy and Natural Resources

INDEPENDENT REFINERS COALITION,
Washington, DC, June 28, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR CHAIRMAN GIBBONS: These are comments of the Independent Refiners Coalition on H.R. 2354, introduced by Congressman Beryl Anthony, and H.R. 2396, introduced by Congressman Robert Matsui, relating to the tariff treatment of imported gasoline and gasoline blendstocks. The Independent Refiners Coalition represents the interests of thirty independent refiners which operate approximately one-half of the independent refining capacity of the United States. The independent refining sector represents 26% of the United States operating refining capacity. The Independent Refiners Coalition is composed of eighteen companies and a trade association, the American Independent Refiners Association (AIRA).

In regard to H.R. 2354, which would create a two-tier tariff on imported gasoline and blendstocks, we offer our unqualified support. The bill would create a first-tier tariff of 10.8% ad valorem on the first 3,000,000,000 gallons of gasoline and blendstocks imported annually and the rate would double for any quantities over that. The bill would also implement the recent International Trade Commission recommendations in regard to classifications of blendstocks.

At the present time, imports of gasoline and blendstocks are increasing dramatically as foreign export refineries come on stream. Imports of gasoline and blendstocks increased more than 300% to 1984, from 128,000 barrels per day to 411,000 barrels per day. Gasoline and blendstock imports equalled about 6% of total U.S. gasoline demand in 1984. It is important to observe that the increase in gasoline imports from 1982 through 1984 exceeded the increase in gasoline demand in this country. As an example of the increase in foreign refining capacity, Middle East crude distillation refining capacity increased from 2,920,000 barrels per day in 1982 to 3,596,000 barrels per day in January of 1985. Further, in 1980 about 29% of the free world refining capacity was government owned. Last year that rose to 42%, and when the new OPEC refineries come on stream in 1985 and 1986, about half of the free world's refining capacity will be state owned.

While we have gone on record on supporting H.R. 2451, in our testimony before the Trade Subcommittee on the Ways & Means Committee on June 6, 1985, which you have introduced, this sudden increase in imported petroleum products requires that we have immediate effective relief against such imports prior to being able to seek a remedy under your bill against crude oil subsidies. We are like a drowning man whose immediate need is a lifeboat, although swimming lessons may be contemplated in the future.

Increases in imported petroleum products have caused a corresponding decrease in U.S. refining capacity. Despite a major rationalization and modernization in our domestic refining industry, we find it impossible to compete against subsidized foreign refineries. As a result, our present refining capacity is perilously close to our present domestic needs, which raises serious national security questions if there were ever to be a substantial increase in military demand.

Furthermore, Mr. Chairman, since other countries like Japan and the European Community have higher tariffs than the United States as well as other trade barriers, our markets become the markets of last resort for all of the world's gasoline, whether coming from China, the Middle East, Communist Bloc countries, or Europe. All excess gasoline and gasoline blendstocks find their way to the open U.S. market, while other countries close their markets for security reasons. It is time we adopted the same national security measures.

We support H.R. 2354 because it restores the tariff to the same level it was when it was instituted in 1958, on an ad valorem basis. As the price of gasoline has risen, the tariff has not risen in consort, which has reduced the level of equalization necessary to protect our domestic industry for national security reasons. Restoring the level of the tariff to the same proportionate level it was in 1958 will discourage other countries from using the United States as a dumping ground.

We also support those provisions of the bill that would provide for better enforcement by applying an actual use test in order for imports to qualify as motor fuel, motor fuel blending stocks, or non-motor fuel naphtha, as recommended by the International Trade Commission.

Turning to H.R. 2396, introduced by Congressman Matsui of California, we are concerned that the bill does not have any provisions addressing the increased influx of imported products. While we applaud the bill's effort to rationalize the classification systems in this area consistent with the International Trade Commission's recommendations earlier this year, we must note that it would not provide any nation-

al security protection against our reduced refining capacity. Furthermore, since the bill establishes an actual use test only for the new category of motor fuel blending stocks, we are concerned that it does not apply an actual test to the current motor fuel category or the non-motor fuel naphtha category. We feel this defect should be corrected.

On behalf of the Independent Refiners Coalition, we would like to express our appreciation for the opportunity to comment on these bills.

Sincerely,

PHILIP H. POTTER.

STATEMENT OF OXBOW RESOURCES, INC., GOLDEN GATE PETROLEUM CO., AND EURO-CARIBBEAN OIL CORP.

SUMMARY

These comments represent the views of several importers and blenders* of refined petroleum products on H.R. 2354 and H.R. 2396. The Commenters strongly support H.R. 2396 and urge the Subcommittee to approve the bill and report it favorably to the full Committee. They oppose H.R. 2354.

H.R. 2396 proposes a necessary amendment to the Tariff Schedules to create a separate classification item for motor fuel blending stocks with a duty of 1.25¢ per gallon, the same as that currently established for motor gasoline. This amendment conforms to the recent recommendation of the International Trade Commission and would reverse a change in the Customs Service's treatment of these commodities which has resulted in greater expense and uncertainty for importers.

By contrast, H.R. 2354 represents an attempt by a small segment of the petroleum industry to protect itself against limited competition from foreign imports of gasoline and blendstocks (which currently represent between 5 and 7 percent of total U.S. demand). The independent refining sector has undergone market rationalization in response to declining demand and the elimination of federal subsidies. Until recently, their financial performance has been poor.

To protect against foreign competition, the independent refiners have asserted that foreign product poses a threat a national security. The fact is that foreign competition threatens only the balance sheets of the independent refiners, not the national security. If they are successful, the independent refiners will assure that gasoline prices will skyrocket, costing consumers at least $9 billion each year with the attendant adverse effects on the national economy as a whole.

Therefore, the Commenters oppose H.R. 2354 and urge the Subcommittee to reject it.

COMMENTS ON H.R. 2354 AND H.R. 2396

The companies [1] whose views are represented in these comments (the "Commenters") are blenders and marketers of gasoline located in all parts of the country. They operate at the cutting edge of competition by buying gasoline and blending stocks at the lowest possible cost from both domestic and foreign sources and manufacturing gasoline which is sold to consumers at the lowest poesible prices. The provisions of H.R. 2396 and H.R. 2354 address the tariff classification and duty rate for motor fuel blending stocks, and therefore are of critical importance to the Commenters; they appreciate this opportunity to offer their views on these measures to the Subcommittee.

I. INTRODUCTION

In recent months an increasingly vocal segment of the U.S. petroleum industry has begun calling for the introduction of protectionist barriers to imported products.[2] The advocates of trade barriers, who by and large are independent refiners,

---

* This paper is sponsored by Oxbow Resources, Inc.; Golden Gate Petroleum Co. and Euro-Caribbean Oil Corp.

[1] These comments are sponsored by Oxbow Resources, Inc.; Euro-Caribbean Oil Corp. and Golden Gate Petroleum Co.

[2] See, e.g., Testimony of John Hall, Chairman and CEO, Ashland Oil on behalf of Independent Refiners Coalition and Bill Tell, Jr., Senior Vice President, Texaco before the Subcommittee on Energy Conservation and Regulation, Senate Energy Committee, June 4, 1985; Testimony of George W. Jandacek, Vice Chairman of Crown Central Petroleum and Robert T. McGowan, Vice Chairman of Ashland Oil, before the Subcommittee on Energy and Agricultural Taxation, Senate Finance Committee, June 21, 1985.

contend that their viability is in jeopardy as a direct consequence of imports and that ultimately a "flood" of gasoline and blendstock imports (which now constitute only 5 to 7 percent of total U.S. demand), will result in the failure of refineries that are essential to the national security.

The Commenters are customers of the many of the independent refiners who are calling upon Congress for new trade barriers. They would be among the last in the industry to wish to see these companies perish and among the first to suffer harm should this occur. They do not believe, however, that the refiners have made a case for new trade barriers. Even the refiners' own recently released Pace Co. study must use far-fetched and unrealistic assumptions to reach the conclusion that gasoline and blending stock imports may grow by a meager 4 to 6 percent by 1990. Using realistic projections, The Pace Co. study concurs with the conclusions of the Department of Energy and others, that imports will not likely exceed current levels through 1990.[3]

The real problems of the U.S. refining sector over the past few years have been due to changing economic and competitive circumstances—including a substantial decline in demand and the elimination of a variety of federal subsidies that encouraged the creation of numerous small and inefficient refineries. Perhaps more important, there is every reason to believe that the independent refinng sector is recovering and will be strong. No evidence suggests that it must be sheltered behind new tariffs every penny of which will cost the U.S. consumer more than $1 billion.

As Deputy Energy Secretary Boggs, Undersecretary of Defense Ikle and other Administration officials have repeatedly testified, current import levels do not constitute a threat to national security and do not justify the impositon of protectionist measures when the consequences of U.S. consumers and the economic health of the nation are manifestly adverse. Current statistics and projections indicate that domestic refining capacity will be sufficient to meet national needs even in the event of an emergency. Indeed, it is hard to believe that any threat exists when this Administration, which has been so concerned with the national defense, discounts it. In sum, there is no basis for the imposition of trade barriers, particularly when they will inevitably distort world crude and products markets and jeopardize positive trade relationships with countries such as China, Canada, Mexico and Venezuela.

There is a need, however, for narrowly drawn technical adjustments to the tariff schedules to rationalize the classification of petroleum blendstocks. Here, the Commenters endorse wholeheartedly the International Trade Commission's (ITC) recent recommendations to Congress and their implementation in H.R. 2396 introduced by Representative Matsui. The Bill will both eliminate the uncertainty that currently surrounds the classification of motor fuel blending stocks and provide the Customs Service with much needed direction in the classification of such commodities. As the Commenters testified before the ITC, the adoption of a rational classification system for blendstocks is necessary to end an ongoing nightmare for importers which on occasion has threatened to drive them from business. The Commenters urge the Subcommittee to report favorably on H.R. 2396 and look forward to the earliest passage of this legislation.

II. THE REFINING INDUSTRY TODAY

Prior to 1981, when President Reagan ordered the decontrol of the petroleum industry in the United States,[4] the domestic refining industry had been insulated from competition in the world market by federal programs dating back to the 1950's. These programs included oil import quotas and license fees,[5] and, beginning in 1974, price controls with their entitlements subsidies and notorious "small refiner bias."[6] These protectionist measures fostered inefficiency and misallocation of capital and labor resources in the petroleum industry generally and in the refiner seg-

---

[3] "The Effect of Increasing Petroleum Product Imports on the United States Refining Industry," The Pace Co., May 30, 1985.

[4] Executive Order 12287, 46 Fed. Reg. 9909 (Jan. 30, 1981).

[5] See. 22 Fed. Reg. 6804 (Aug. 22, 1957); 22 Fed. Reg. 2772 (Dec. 12, 1957); Exec. Order No. 10761, 23 Fed. Reg. 22067 (March 28, 1958); Proc. No. 3279, 24 Fed. Reg. 1781 (March 12, 1959) (establishing the Mandatory Oil Import Program); Exec. Order 11588, 36 Fed Reg. 15727 (Aug. 17, 1971) (establishing import price controls); Proc. No 4210, 38 Fed. Reg. 9645 (April 19, 1973) (eliminating the quota system and establishing the license fee system).

[6] See generally 10 CFR § 211.67 (1976).

ment in particular.[7] Government intervention likewise distorted domestic crude oil and product suppy and demand and resulted in higher prices for the consumer.[8]

In stark contrast to this history, the more recent results of decontrol and a free domestic market in oil and refined products have been extraordinarily beneficial to the nation's economic health. The decline in crude oil prices in the world market, which is projected to continue throughout this decade,[9] has been passed on to the domestic economy through a competitive petroleum market unconstrained by government-imposed controls. In turn, a highly competitive petroleum market helped fuel a general economic recovery and afforded the consumer the benefit of lower refined product prices.[10]

As beneficial as these developments were for the country as a whole, they necessarily produced a period of adjustment for the refining sector. Bertween 1973 and 1981, the number of domestic refineries artificially ballooned from 281 to 324 and capacity increased from 13.7 MMB/D to 18.6 MMB/D.[11] With the removal of federal controls and subsidies in 1981, approximately 100 older, smaller and less efficient plants were shut down either temporarily or permanently.[12]

This artificially-induced increase in capacity was also overtaken by a substantial decline in domestic demand for petroleum products. Demand for petroleum products generally is down from a 1978 high of 18.8 MMB/D to approximately 15.7 MMB/D today, while demand for gasoline which peaked in 1978 at 7.4 MMB/D has decreased to an average 6.6 MMB/D for the first quarter of 1985.[13] The inevitable consequence of a permanent reduction in consumption is a corresponding reduction in refining capacity.

Finally, at the time of decontrol, some refiners elected to make substantial investments in new facilities capable of upgrading heavy, high-sulfur crude oils into lighter products such as gasoline. This compex processing capability was intended to take advantage of what was then a substantial differential between the cost of light and heavy crude oil and the price of light and heavy refined products. While the new facilities are highly sophisticated and efficient, their success depended upon a continuation of these price differentials. In fact, however, over the past two years, light and heavy costs have tended to coverage as has the price commanded by light and heavy products.[14] The result, until very recently, has been a squeeze on refiner margins.

In recent months, however, financial performance of U.S. refiners has improved dramatically. We are confident moreover that the shake-out has ended and that the necessary core of the refinery industry will survive and prosper. For example, Ashland, one of the most vocal supporters of product import restrictions, has shown a 24.2 percent increase in earnings during the first half of 1985 over 1984.[15] Ashland CEO John Hall noted in an interview with the The Oil Daily that the company's improved performance "began . . . in late February as OPEC contained its crude production, which led to a better balance between supply and demand." Mr. Hall also commented that Ashland's "[m]argins continued to rise substantially during March and April and [he is] cautiously optimistic for the remainder of the year."[16]

Tosco, another strong supporter of import restrictions, stated in May that its "margins have improved considerably in the past 60 days and that the company expected 'sharp improvement' in second quarter results . . . ."[17] Tosco also reported the sale of its troubled refinery at El Dorado, Arkansas to Lion Oil Co.

---

[7] See generally D. Dohi and M. Russell, Limiting Oil Imports: An Economic History and Analysis (1978); J. Griffin and H. Steele, Energy Economics and Policy (1980); J. Kalt, The Economics and Politics of Oil Price Regulation: Federal Policy in the Post-Embargo Era (1981).

[8] Id.

[9] Annual Energy Outlook 1984, Energy Information Administration, Department of Energy (1985); World Energy Outlook, Chevron Corporation, Economics Dept., June 1985.

[10] See e.g., The New York Times, February 22, 1985 at 1 and Testimony of Professor Edward W. Erickson before the International Trade Commission, Investigation No. 332-203, March 7, 1985.

[11] U.S. Crude Oil Refining Capacity, Amerian Petroleum Institute Basic Data Book, Vol. V, No. 1 (1985).

[12] Id.

[13] Crude Oil and Petroleum Products Overview, Finished Motor Gasoline Supply and Disposition, Monthly Energy Review, Energy Information Administration, Department of Energy, February 1985 (hereinafter Monthly Energy Review).

[14] Refiner and Gas Plant Operator Sales Prices of Residual Fuel Oil, Refiner and Gas Plant Opertor Sales Prices of Petroleum Products for Resale, and FOB Cost of Crude Oil Imports From Selected Countries, Monthly Energy Review.

[15] The Oil Daily, April 24, 1985, at A-7.

[16] Id., at A-8.

[17] The Oil Daily, May 10, 1985, at 8.

Similarly, Valero Energy/Saber Refining is expecting to run its sophisticated 70,000 barrel per day refinery at maximum capacity as a result of investments by Saudi Arabian businessman Akram Ojjeh's Luxembourg-based company, Techniques d'Avant Garde (TAG).[18] Because of heavy debt service costs, incurred to construct the industry's most advanced, state-of-the-art facility, Saber needs to attain a minimum differential of $6 per barrel between the cost of its feedstock and the price at which it can sell it refined product.[19] The recent drop in spot crude prices undoubtedly has helped Saber's position, although it obtains most of its crude supply through a long-term contract with Venezuela.

Diamond Shamrock's refined product sales were up 9.2 percent in 1984 and downstream profits climbed 22.7 percent from 1983's $66 million to $81 million in 1984.[20] Crown Central's losses in 1984 hid its fourth quarter gain of $13.6 million up from $7 million in the fourth quarter of 1983.

These improvements in performance have occurred despite relatively flat trends in imports. What has changed, however, are the relative prices of crude and refined products coupled with some increase in U.S. consumption of gasoline, even at slightly higher prices. This evidence leads to the conclusion that recent levels of imports have been more a result of the domestic refining industry's problems than a cause. U.S. refiners have no need for trade barriers to protect their profit margins. As shown below, trade barriers also are unnecessary to protect national security.

III. CURRENT REFINING CAPACITY IS SUFFICIENT TO MEET NATIONAL SECURITY NEEDS

The advocates of trade barriers have claimed that the reduction in domestic capacity from the artificially inflated levels of the 1970's has placed the United States on the verge of a national crisis. These claims fall totally wide of the mark and indeed have little, if any, factual basis.

Both Undersecretary of Energy Danny Boggs and Frederick Gerlach, of the State Department's Office of Energy Producing Countries[21] have made clear the Administration's view that proponents of restricting products because of national security considerations have yet to prove their case. In testimony before both House and Senate Subcommittees,[22] Boggs noted that current U.S. domestic refining capacity remains approximately equal to the entire U.S. demand for oil products.

Perhaps most important, in recent testimony before the Energy Taxation Subcommittee of the Senate Finance Committee, Undersecretary of Defense Fred Ikle indicated that there was no national security risk posed by current levels of imports. Indeed, Undersecretary Ikle warned against import barriers as a means of protecting domestic capacity because of the substantial havoc such measures wreak on the national economy and the harm they cause to American consumers.[23]

The real facts are these: U.S. refining capacity is now approximately 15.6 MMB/D.[24] This is far more than the capacity needed to meet current demand, about 13.1 MMB/D, even if all imports were terminated.[25] Moreover, the refinery utilization rate in the U.S., at 76 percent[26] the highest since 1979, provides a comfortable cushion in the event of a disruption in the imports of foreign product. This utilization rate has increased to its current level from of a low of 68.5 percent in 1981.[27] It is now slightly higher than the average utilization rate worldwide, reflecting some decrease in worldwide overcapacity and the equalizing effect of international competition.

While much has been made of the potential threat to U.S. refiners from newly-constructed refineries in the Persian Gulf, including a refiner-sponsored study by

---

[18] The Oil Daily, March 25, 1985, at B-19.
[19] Id.
[20] The Oil Daily, March 25, 1985, at B-8.
[21] See, Platt's Oilgram News, May 28, 1985 at 3.
[22] See, Testimony of Danny J. Boggs, Deputy Secretary of Energy, before the Subcommittee on Environment Energy and Natural Resources, House Committee on Government Operations, April 24, 1985; and before the Subcommittee on Energy Conservation and Regulation, Senate Committee on Energy and Natural Resources, June 4, 1985.
[23] Testimony of Fred C. Ikle, Undersecretary of Defense before the Subcommittee on Energy and Agricultural Taxation, Senate Committee on Finance, June 21, 1985.
[24] Id. The independent refiners cite substantially lower figures, but provide no source for their data beyond "our figures." See John Hall, "Imports Could Kill the Refining Industry," The New York Times, June 23, 1985.
[25] F. Fesharaki and D. Isaak, The Changing Structure of World Refining Industry: Implications for U.S. Energy Security, Resource Systems Institute, East-West Center (1985) (hereafter East-West Center Study).
[26] Platt's Oilgram News, May 16, 1985 at 3.
[27] Lundberg Letter, Vol. XI, No. 23, March 23, 1984.

Pace Co.,[28] these concerns are unwarranted. The Pace study has taken a number of unlikely assumptions and combined them to draw the conclusion that domestic refiners will suffer grave consequences from the new OPEC refinery capacity absent high barriers to imports.

The study begins by assuming that the U.S. is the only market in the world open to imports of refined products and that the new Middle East refineries will operate continuously at maximum capacity. Based on these self-serving assumptions, the study concludes that imports of gasoline and middle distillates from all sources could reach between 12 and 13 percent of total U.S. demand by 1990, depending on the country's level of economic activity.[29] Upon examination, it is clear that these assumptions are faulty.

First, the total capacity of the new refineries is only 800,000 barrels per day, approximately 5 percent of U.S. consumption.[30] Furthermore, in a world of excess refinery capacity, it is unlikely that these new plants would operate at maximum capacity.

Second, it is unlikely that OPEC producers would be able to penetrate the refined products market without undercutting the price and production quotas established for the primary OPEC commodity—crude oil. Many experts believe that OPEC's push into the products market may undermine both its short- and long-term interest in the stability of the crude markets.[31] Ultimately, the price of crude would be forced to drop to lower levels, benefiting non-OPEC refineries and ultimately world consumers.

Third, the chances of Europe's completely closing its doors to product imports are slim. In addition, Japan is being urged both by the U.S. and OECD nations to open its markets to refined products. Recent press reports also indicate that officials of Saudi Arabia's Petromin, which supplies a substantial quantity of crude to Japan, have met with Japanese officials to encourage their participation in the products market. There are indications that some liberalization in Japan's policy may be seen by early to mid-1986.[32]

Finally, the new OPEC capacity is far more likely to displace less efficient, foreign refineries than U.S. capacity. The most probable victims of the new Middle East facilities are the so-called class "C" refineries—those that depend upon imported crude oil for feedstock and on export sales of products in foreign markets—including plants in Aruba, Curacao and Singapore. The closing of these older and less sophisticated refineries will reduce the worldwide oversupply of capacity and enhance the efficiency of the global refining market. Complex, efficent and sophisticated U.S. refining capacity will be well positioned in this competitive environment.[33]

IV. CURRENT IMPORT SUPPLIERS ARE FRIENDLY U.S. TRADING PARTNERS

The refiners' national security case is premised on a scenario in which all product imports would be terminated—an utterly remote possibility. The vast majority of imports—about 98 percent—are supplied by friendly U.S. trading partners. A massive disruption in product imports is, therefore, unlikely. Perhaps more important, however, is the fact that the imposition of protective measures could have significant repercussions on otherwise positive U.S. international trade relations.

Current imports are supplied by approximately 40 countries.[34] Thirty-seven percent of all imports come from U.S. possessions or U.S.-owned refineries in the Caribbean.[35] Almost 21 percent are imported from other OECD nations, with the Netherlands and Canada accounting for over 15 of the 21 percent. Venezuela supplies the U.S. with about 15 percent of total product imports. Only 2 percent, or 0.2 percent of U.S. consumption is supplied from Persian Gulf OPEC nations.[36] As noted, even with new onstream OPEC capacity, this percentage is unlikely to increase significiantly.

Erecting protectionist import barriers will have significant reprecussions on our trade relations with the rest of the world. In addition to the general dislocation in world oil markets that would result if the world's largest product consumer were to

---

[28] "The Effect of Increasing Petroleum Product Imports on the United States Refining Industry," The Pace Co., May 30, 1985.
[29] Id. at Table 6.
[30] East-West Center Study.
[31] Oil & Gas Journal, May 27, 1985 at 25.
[32] Platt's Oilgram News, May 23, 1985 at 1.
[33] East-West Center Study.
[34] Id.
[35] Id. and Independent Refiners Coalition data.
[36] Id.

close its doors, there would be a distinctly adverse effect on bilateral trade relations with major product suppliers such as Canada, Mexico, and China, on whom we also depend for supplies of crude oil.[37]

V. PROPOSED PRODUCT IMPORT BARRIERS WILL CAUSE SERIOUS INJURY TO U.S. CONSUMERS AND THE U.S. ECONOMY

H.R. 2354 introduced by Representative Anthony would increase gasoline and blendstock tariffs by more than 9 cents per gallon. Should Congress adopt a tariff of this magnitude, many if not all current gasoline imports will likely be barred in order to prop up a few U.S. refiners who might ultimately be faced with reducing gasoline production or closing marginal plants. The consequences of these actions for U.S. consumers, however, are substantial and entirely adverse.

It has been estimated that every penny added to the price of gasoline through increased tariffs represents an additional $1 billion in direct costs at the pump. Thus an increase of 9 cents per gallon amounts to a $9 billion economic burden on the nation as a whole.

Prohibitive tariffs carry other hidden and indirect costs as well: waste of crude oil, higher capital and other input costs and a generally inefficient economic allocation of resources. In economic terms, the misallocation will result in a "consumption loss" because a higher-priced domestic product will be substituted for a lower-priced import. Essentially, the economy would be getting less value for its money.

At the same time, the economy will suffer a "production loss" because resources will be allocated to higher cost production and away from the lower cost production of alternative goods. Employing domestic resources in areas where others may have a comparative cost advantage reduced the nation's ability to produce lower-cost goods for domestic consumption and export and lowers the country's real income.

The serious consequences of artificial distortion of energy markets are well-known. Because energy plays such a key role in the economic system, a highly competitive market helps to keep inflation down. By the same token, an artificially constrained market will fuel inflation and prevent real economic growth.

VI. THE NEED FOR A RATIONAL TARIFF CLASSIFICATION FOR MOTOR FUEL BLENDING STOCKS

Both H.R. 2354 and H.R. 2396 propose to amend the Tariff Schedules to relassify motor fuel blending stocks. H.R. 2354 would place all blending stocks in the same category as motor fuel and would include in that category naphthas actually used as gasoline blending components. H.R. 2396 adopts the ItC's recommendation[38] to establish a separate category for motor fuel blending components based on the acutal use of the commodity in the manufacture of gasoline.

The Commenters strongly support the rationalization of the tariff classification of motor fuel blending stock in a manner that recognizes the commercial realities of its use in the manufacture of motor gasoline. Either proposal would have that effect. For all of the reasons discussed in Section II through V above, however, the Commenters equally strongly disapprove of the tariff rate of 10.8 percent ad valorem (increasing to 21.6 percent ad valorem upon the importation of 196,000 barrels per day) propsed in H.R. 2354. Therefore, the Commenters urge the Subcommittee to approve Representative Matsui's proposal, H.R. 2396, and report it favorably to the Committee.

A. The Need for Reform

Under the present classification regime, a commodity which qualifies as –motor fuel" is dutiable at 1.25¢ per gallon under TSUS item 475.25. Before 1983, Customs classified most motor fuel blending stocks under the motor fuel provision. In 1983, however, the Customs Service suddenly took the position that a petroleum commodity would be classified as "motor fuel" only when it met the current ASTM standards for automotive gasoline set out in D-439.[39]

---

[37] In testimony before the Senate Subcommittee on Energy Taxation, Undersecretary of Defense Ikle noted that fully one-half of the crude oil imports on which the Pentagon relies come from our allies in the Western Hemisphere. Testimony of Fred C. Ikle, Undersecretary of Defense, before the Subcommittee on Energy and Agriculture Taxation, Senate Committee on Finance, June 21, 1985.

[38] Final Report on Investigation No. 332-203 Under Section 332 (g) of the Tariff Act of 1930, Possible Effects of and Recommendations Concerning the Proposed Tariff Reclassification of Catalytic Naphtha and Other Motor Fuel Blending Stocks, International Trade Commission, April 1985 (hereinafter "ITC Report").

[39] See T.D. 83-173 (August 17, 1983).

The Customs Service's position has meant that gasoline blending stock which fails to qualify as "motor fuel" under ASTOM standards may be dutiable at a much higher rate, depending upon its additives and unique chemical composition. As noted in the ITC Report, the change resulted in "the scattering of the so-called blending stocks to other parts of the TSUS, In all cases at significantly higher duty rates." [40]

This anomaly creates substantial uncertainty for an importer who often cannot know in advance the precise chemical composition of the commodity he has purchased and therefore the classification and duty Customs will apply. As far as the importer is concerned, the commodity is being imported only for use as a motor fuel blending sock. Nevertheless, depending on its composition, such gasoline components may be classified as tetraethyl lead under item 429.70, TSUS, at a rate of 12.4 percent ad valorem; as a lead mixture under item 432.10, TSUS, at a rate of 9.8 percent ad valorem; or as a benzenoid chemical under items 407.16 and 402.36, at a rate of .8¢ per pound plus 173 percent ad valorem.

The Tariff Schedules should be amended to eliminate these inconsistencies and to avoid irrational and anomalous classifications and duty rates. This reclassification should ensure, first and foremost, that motor fuel blending components are treated as pertroleum products under Part 10, Schedule 4, TSUS. H.R. 2396 would achieve this result with the additional benefit that the duty rate applied to motor fuel blending stock would be directly related to its role in the manufacture of gasoline.

B. The Benefits of H.R. 2396

In recommending the provision incorporated by Representative Matsui in H.R. 2396, the ITC found that the creation of a separate classification for motor fuel blending stock based on actual use would comport with the historical treatment of such commodities as it existed before the Customs Service took its current position. In addition, the Customs Service would be able to apply the "actual use" requirement in a straightforward and certain manner. Finally, the ITC noted that a similar provision had garnered the support of the Departments of Commerce, Energy and Treasury, the Customs Service, the Office of the Special Trade Representative, as well as the ITC itself, when it was introduced in the 98th Congress.

VII. CONCLUSION

When the independent refiners began their campaign for protectionist subsidies, there was a general consensus that they would have a heavy burden to demonstrate the need for such controls. They have failed to make their case.

There is a clear need, however, to rationalize the customs treatment of motor fuel and blending components. The Commenters urge the Subcommittee to report favorably upon H.R. 2396 and to reject efforts to use tariff rationalization to curtail refined petroleum product imports.

PETROL PLUS OF NAUGATUCK, INC.,
Derby, CT, June 5, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee of Trade,
Committee on Ways and Means, U.S. House of Representatives.

DEAR MR. CHAIRMAN: Petrol Plus of Naugatuck, Inc. is a full line petroleum distributor marketing gasoline throughout the State of Connecticut under various brand names. We are a small family owned business, employing approximately 200 people. The enactment of H.R. 2396 is important to us and the consumers of the State of Connecticut.

H.R. 2396 will provide for a tariff rate on motor fuel components to equal the tariff rate on finished gasoline. We believe that this will help to stabilize the ability of companies who manufacture motor fuels to continue to do so. Ensuring the manufacture of gasoline by these companies will enhance our ability to provide competitively priced products to those thousands of consumers in Connecticut which we serve.

---

[40] ITC Report at 53.

Petrol Plus also supports H.R. 2396 because the International Trade Commission's recomendations, resulting from their investigation of the reclassification of naptha and other motor fuel blending stocks, will best be met by H.R. 2396.

Sincerely yours,

ARTHUR GOLDSTEIN, *President.*

COLLIER, SHANNON, RILL & SCOTT,
Washington, DC, June 27, 1985

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: This letter, written on behalf of our client, the Society of Independent Gasoline Marketers of America ("SIGMA"), responds to the Subcommittee's request for comments on H.R. 2354, introduced by Congressman Anthony on May 6, 1985. For the reasons discussed below, SIGMA opposes the enactment of H.R. 2354 and urges the Subcommittee to reject this unnecessary and anticompetitive legislation.

SIGMA'S INTEREST

SIGMA is a national trade association comprised of approximately 270 independent marketers and private brand chain retailers of motor fuels. SIGMA's members market refined petroleum products in all 50 of the states and account for between 10 and 15 percent of the U.S. retail market for motor gasoline.

Independent marketers, such as SIGMA's members, compete directly with one another as well as the downstream marketing and retailing operations of refiners. Indeed, independent marketers' impact on price competition and the marketplace in general has been beneficial in several ways. Independent marketers have introduced such novel marketing devices as self service, high volume/low margin marketing, and automated retail marketing. Because of these pioneering marketing concepts and superior systems of cost controls, independent marketers have played a critical role in inducing price competition in the domestic market for gasoline. In addition, independent marketers supply most of the refined products in many of the geographic areas abandoned by major refiners.

Independent marketers' lack of crude oil production or processing capacity means that refined product supplies must be secured from domestic competitors or from imports. Prices at which independent marketers can procure refined petroleum products are critical. Absent the availability of competitively-priced products, the superior efficiencies and innovations of independent marketers would be rendered irrelevant in the market and independent marketers could not survive.

Imports of gasoline serve an important function beyond mere addition to supply. First, imports provide independent marketers with another source of competitively-priced gasoline. Second, the availability of gasoline of foreign manufacture to participants in the U.S. market induces competitive pricing by domestic refiners who otherwise would have no incentive to deal on a competitive basis with their marketer-competitors.

In sum, for their economic and competitive viability, SIGMA's members must rely upon the pro-competitive effects generated by relatively unrestricted access to finished gasoline of foreign manufacture. The potential alternate supply which such access represents, constitutes the principal incentive for integrated domestic refiner-marketers to sell competitively-priced product to their marketer-competitors. Absent this incentive, competition at the retail level of the gasoline market will be reduced significantly.

H.R. 2354

In his remarks accompanying the introduction of H.R. 2354, Congressman Anthony stated that enactment of this legislation is justified for the following reasons: (1) "This country's increasing dependence on foreign refined petroleum products especially motor gasoline, weakens a vital domestic industry and undermines our ability to employ the strategic petroleum reserve [SPR] in the event of a substantial energy supply interruption." (2) Our "national dependence on imported refined products is rapidly replacing our historical dependence on imported crude oil." And (3) "[i]ncreasing imports of gasoline and gasoline blendstocks have forced the shutdown of many efficient U.S. refineries." SIGMA respectfully disagrees with the Congressman.

Imports of gasoline and gasoline blendstocks have not significantly weakened the domestic refining industry. Such imports do not significantly undermine our ability to process the SPR. The United States is not becoming dangerously dependent on imports of refined petroleum products. Finally, imports of gasoline and gasoline blendstocks have not been the predominant cause of refinery closings in the United States.

SIGMA does not dispute the fact that some domestic refiners, predominantly independent, refiners, have experienced substantial financial difficulties. However, a review of the relevant facts clearly demonstrates that any such problems result from causes other than imports of gasoline and gasoline blendstocks. Thus, the enactment of H.R. 2354 would be unjustified, unnecessary, and anticonsumer.

THE STRUCTURE OF THE DOMESTIC PETROLEUM INDUSTRY

The United States petroleum industry is overwhelmingly dominated by a limited number of large, vertically-integrated companies. The dominance of these companies can be discerned easily from a review of the following tables:

INDICES OF MAJOR INTEGRATED COMPANIES' CONTROL OVER DOMESTIC PETROLEUM MARKET

TABLE A[1].—DOMESTIC FIRST PURCHASES OF CRUDE OIL, PERCENT OF TOTAL VOLUMES PURCHASED BY MAJOR REFINERS [2]

[In percent]

	Major refiners [3]	Other refiners
1983	72.5	27.5
1984	71.3	28.7
1985 (January to April)	72.1	27.9

[1] Source: Compiled by the U.S. Department of Energy ("DOE") upon special request from the Domestic Crude Oil First Purchase Report.
[2] The relevance of first purchases of crude oil is that it reflects not only the proprietary production of a particular company, but also independently-produced crude oil, the price of which is effectively controlled by the company. Specifically, wellhead prices for crude oil are established by buyers' postings. Such buyers' control over these prices is based upon their control over the gathering pipeline systems used to move crude oil from the point of production to the main pipeline systems. Because of the cost efficiencies of such pipelines, the pipeline operators' competitors cannot cost-effectively compete for production served by that pipeline operator.
[3] Major refiners as defined by DOE: refiners with a total refinery capacity in the U.S. and its possessions of greater than or equal to 275,000 barrels per day as of January 1, 1982.

TABLE B[1].—REFINER'S OPERABLE CRUDE OIL DISTILLATION CAPACITY AS OF JANUARY 1, 1985

[Barrels per calendar day]

Major integrated oil company	Barrels	Percent total capacity
Standard Oil of California (Chevron USA Inc.)	1,484,700	
Exxon Corporation (Exxon Co. USA)	1,200,000	
Standard Oil Co. of Indiana (Amoco Oil Co.)	986,000	
Shell Oil Co	1,005,000	
Texaco, Inc.	1,199,000	
Gulf Oil Corp	823,200	
Mobil Oil Corp	750,000	
Atlantic Richfield Co	768,000	
U.S. Steel Corp. (Marathon Oil Co.)	588,000	
Unocal Corp	490,000	
Standard Oil Co. of Ohio (including BP Oil Corp.)	456,000	
E.I. Du Pont De Nemours & Co. (Conoco, Inc.)	429,774	
Sun Co., Inc	358,000	
Phillips Petroleum Co	300,000	
Total major integrated refiners	10,837,674	69.2
Total other refiners	4,821,095	30.8
Total all refiners	15,658,769	100.0

[1] Source: U.S. Department of Energy, Energy Information Administration, Petroleum Supply Annual 1985, Volume I (June 1985). Note: these statistics include major integrated oil companies only. With the inclusion of all companies in the Department of Energy's definition of major refiners, the percentage of total capacity increases to 75 percent.

TABLE C[1].—REFINER ACQUISITION COSTS OF CRUDE OIL, BY TYPE OF REFINER, 1978 TO PRESENT

[Dollars per barrel]

Year month	Major refiners			Other refiners			Average		
	Domestic	Imported	Average	Domestic	Imported	Average	Domestic	Import	Average
1978 average	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	10.61	14.57	12.46
1979 average	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	14.27	21.67	17.72
1980 average	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	24.23	33.89	28.07
1981 average	34.25	37.41	35.49	34.54	36.39	34.92	34.44	37.05	35.24
1982 average	31.07	33.92	31.89	31.72	32.07	31.81	31.22	33.55	31.87
1983 average	28.67	29.53	28.92	29.42	28.33	29.17	28.87	29.30	28.99
1984:									
January	28.52	28.92	28.64	28.96	28.01	28.79	28.62	28.80	28.67
February	28.66	29.01	28.76	29.08	28.48	28.94	28.76	28.91	28.81
March	28.56	29.14	28.75	29.34	27.96	29.03	28.75	28.95	28.81
April	28.50	29.24	28.73	29.04	28.54	28.92	28.63	29.11	28.77
May	28.51	29.37	28.78	29.07	28.66	28.99	28.65	29.26	28.83
June	28.37	29.38	28.71	29.29	27.93	29.01	28.58	29.19	28.77
July	28.60	29.13	28.76	29.03	28.41	28.88	28.70	29.00	28.79
August	28.51	29.06	28.68	28.88	28.12	28.71	28.59	28.92	28.69
September	28.48	28.90	28.61	28.87	27.78	28.59	28.56	28.70	28.60
October	28.37	28.96	29.56	28.79	28.03	28.57	28.46	28.79	28.56
November	27.98	28.98	28.30	28.57	27.66	28.30	28.10	28.74	28.30
December	28.02	28.15	28.05	27.68	27.43	27.62	27.95	28.02	27.97
1984 average	28.42	29.04	28.61	28.90	28.08	28.71	28.53	28.88	28.63

[1] Source: U.S. Department of Energy Information Administration, Petroleum Marketing Monthly (Feb. 1985). For purposes of this DOE survey, major refiners are refiners with a total refinery capacity in the U.S. and its possessions of greater than or equal to 275,000 barrels per day as of January 1, 1982. Note: geographic coverage is the 50 United States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

N.A. = not available.

Much is made of the number of refineries which have closed since January 1981. The following Table D is a representation of the total refineries that were closed during the period January 1, 1981 through December 1984, according to barrels produced per calendar day.

TABLE D [1]

Capacity	Number of refineries	Percentage of total
Over 100,000 B/CD	5	4.5
30,001 to 100,000 B/CD	13	11.6
10,001 to 30,000 B/CD	38	33.9
10,000 or less B/CD	56	50.0
Total	112	100

Source: U.S. Department of Energy, Energy Information Administration, Petroleum Supply Annual 1984, Volume I (1985).

However, as suggested by Table D, it is clear that these refinery closings reflected conditions and circumstances totally unrelated to imports of refined products. For example, many of the refineries which were closed during this period had been built in reliance upon the continued existence of the Mandatory Petroleum Price and Allocation Regulations which provided substantial cost subsidies to small refiners. The overwhelming preponderance of other closed refineries were plants of insufficient efficiency to render them economically viable in a deregulated, highly-competitive market. Finally, it must be recognized that these refinery closings reflect a logical adjustment to the substantial decrease in demand for gasoline which developed after the Iranian embargo of 1979.

SIGMA is sympathetic to independent refiners. Nevertheless, the overwhelmingly dominant cause of independent refiners' problems is not imports, but rather the fact that they compete with vertically-integrated entities. As noted by Mr. Anthony in his remarks which accompanied H.R. 2534, vertically-integrated natural resource

companies' profits are not susceptible to measurement by normal accounting standards.[1]

It is important that the Subcommittee recognize that the vertically-integrated major oil companies effectively establish the price of crude oil in the domestic market. These companies can establish these prices as a result of: (1) their own very substantial production, (2) their dominance of the gathering and transportation systems employed to move most crude oil, and (3) the fact that their refineries represent at least 70 percent of the market for domestic crude oil.

One of the vertical integration's principal advantages to the integrated entity is its resulting ability to take its "profit" or "loss" where it elects. Specifically, in a totally integrated system, there is only one sale to any unaffiliated third party. All other transfers through the various stages of production, manufacture, and distribution are simply book transfer transactions. As a result, the sale of a commodity at a particular level of distribution may appear to be unprofitable while, in fact, it generates a large profit for the vertically-integrated entity.

Any vertically-integrated oil company, either foreign or domestic, seeks to monetize its principal asset, crude oil reserves, in a manner which best utilizes its entire asset base. Whether it proves to have been wise or unwise, both domestic and foreign integrated companies have elected to invest substantial sums in refining technology and hardware. The fact that these decisions were made in happier times for the industry, and probably were premised upon assumptions which subsequently have been demonstrated to be fallacious, does not eliminate the fact of these investments and the need for their owners to utilize these refineries in a manner which maximizes their return on investment.

In the face of decreasing or flat demand for refined petroleum products, a refiner must actually expand its market share to retain the capacity utilization ratio which is essential for its profitable operation of refining capacity. Thus, a domestic integrated company, seeking to maximize the utilization of its refining assets, will operate in an economic decision-making climate no different than that of an integrated foreign-national company. Under such circumstances, both types of producers will price their finished products at the highest price at which they can clear the market. The reason for this decision's being made with respect to finished products as opposed to raw materials is simple. During a period of intense competition, an integrated entity can elect to recognize the reduction of revenue in one of two ways: (1) as an operating loss; or (2) as a reduction in the value of its crude oil reserves. Under such circumstances the choice is obvious—incur an operating loss—because an operating loss is much preferred to a reduction in the value of the entity's underlying asset base.

In a market where integrated entities are compelled to make decisions such as those described above, non-integrated competitors, such as independent refiners, are placed at a substantial, and potentially insurmountable, disadvantage. Specifically, during such markets, domestic integrated companies, in an effort to maintain or increase refining capacity utilization, will sell products at distressed prices. It is this phenomenon, i.e., price cutting in the products market by the domestic integrated companies which dominate that market, not imports, which has depressed motor fuel prices. Thus, imports are not the predominant cause of independent refiners' problems. Moreover, there is no reason to believe, in light of the underutilized capacity possessed by the domestic major integrated companies, that effectively foreclosing the U.S. market to imported gasoline will alleviate independent refiners' difficulties. Rather, it is probable that domestic integrated refiners simply will employ their underutilized capacity and those other competitive advantages currently available to them in a manner which results in their, not independent refiners', capture of the minimal marketshare which the elimination of imports would generate.

ANALYSIS OF ARGUMENTS ALLEGEDLY JUSTIFYING THE ENACTMENT OF H.R. 2354

It has been alleged that imports of gasoline blendstocks have weakened the domestic refining industry, resulting in a substantial loss of jobs. This allegation is unsustainable. The combined marketshare of imported gasoline and imported gasoline

---

[1] SIGMA finds fascinating the data contained in Table E (attached). Specifically, the chief proponents of import restrictions are refiners who base their pleas on claims that their market share is being lost to imports of gasoline and motor fuel blendstocks. However, Table E demonstrates that, during the months of October 1984 through March 1985, refiners were responsible for a substantial percentage of the imports of such products, i.e., a low of 37.6 percent in March 1985 to a high of 52.96 percent in January 1985. Thus, refiners' claims are reminiscent of the matricide who begged mercy from the court on the grounds that he was an orphan.

blendstocks is well under 10 percent. Refinery closings have been the result of a substantial market contraction, which has rendered inefficient refining capacity unviable. Moreover, this market contraction has generated intense competition between domestic integrated oil companies who, in an effort to increase marketshare to support utilization of their refining assets, have depressed refined petroleum product prices. The ability of such companies to remain highly profitable while sustaining this action, i.e., profits from other activities, is absent in the case of independent refiners. If foreign refiners were, in fact, willing to "give away" refined products in an effort to move their crude oil or maximize utilization of their refineries, it is inconceivable that their share of the domestic market would remain as low as it has. Rather, it is clear that foreign gasoline producers have no greater incentive to "give away money" than do domestic integrated competitors. Rather, the pricing of imported gasoline reflects only the foreign producer's need to meet the competition of its domestic integrated competitors in order to participate in the domestic market.

It also has been alleged that imports of refined petroleum products are undermining our national security in two ways: (1) by driving out of business domestic refiners whose refining capacity is necessary to process our domestic crude oil production and SPR; and (2) by increasing our dependence on products of foreign manufacture and thereby rendering the United States susceptible to an embargo similar to that of the early mid-1970s. While it is unclear at this time exactly how much refining capacity is operating in the United States,[2] it is apparently undisputed that the country continues to possess the 12.65 million barrels per day of sophisticated capacity which the parties to this dispute agree are necessary to process domestic production and SPR crude oil. Proponents of restrictions on gasoline imports state that 12.65 million barrels per day is inadequate because such capacity would have to be run at 100 percent utilization ratio to process available supplies. Such proponents further suggest that national security needs should be calculated based on the 85 to 90 percent utilization ratio which is more characteristic of normal operations. Such a suggestion seems disingenuous. While it is undisputed that refining capacity is not normally operated at a utilization ratio of 100 percent, a national emergency does not constitute normal times. Moreover, it seems probable that in such an emergency, this capacity could be operated at 100 percent until such time as "mothballed" capacity could be brought on line. Finally, it is interesting to note that these computations of required capacity take into account neither possible conservation measures which could be employed to reduce demand to acceptable levels or the probability that demand would have been reduced by hostilities.

The argument that increased dependence on imports of refined petroleum products renders this country susceptible to the type of economic blackmail practiced in the Arab oil embargo strains credulity. As Table F (attached) demonstrates, the principal sources of gasoline and motor fuel blendstock imports are unlikely to be adversaries of the United States. Thus, it would be irrational to increase domestic inflation substantially, and detrimentally affect the structure of the gasoline market to the detriment of consumers, in an effort to protect ourselves from an interruption of supplies from the Netherlands, the United Kingdom, Canada, Brazil, and Venezuela.

In conclusion, H.R. 2354 should not be enacted. SIGMA sympathizes with Congressman Anthony's desire to alleviate the hardship currently being experienced by certain participants in the refining industry. However, SIGMA believes, and the facts confirm, that the predominant cause of these economic problems is the ability of verticaliy-integrated domestic companies, dominant in the refined petroleum products market, to sustain operations at price levels significantly below those sustainable by independent refiners and the incentive to sustain such price levels to increase their economic efficiency and capacity utilization.

Imports of gasoline and gasoline blendstocks do not pose a threat to the national security. Rather, they offer independent marketers, such as SIGMA's members, an essential negotiating tool to encourage their refiner-competitors to do business with them on a basis which permits them to remain viable in the domestic retail market.

---

[2] While there have been refinery closing since January 1, 1984, the best information available to SIGMA through the United States Department of Energy suggests there remains approximately 15 million barrels per day of capacity.

SIGMA appreciates this opportunity to express its views on H.R. 2354. If you, other members of the Subcommittee, or your staffs have any questions regarding these comments, please do not hesitate to contact the undersigned.

Sincerely,

WILLIAM W. SCOTT,
Counsel, Society of Independent Gasoline Marketers of America.

Attachments.

TABLE E.[1]—U.S. IMPORTS OF MOTOR GASOLINE AND GASOLINE BLENDING COMPONENTS, TOTAL IMPORTS AND IMPORTS BY REFINERS, OCTOBER 1984–MARCH 1985

	Gasoline	Gasoline blending components	Total	Total imported by refiners	Percent imported by refiners
1984:					
October	9,315,910	4,072,176	13,388,086	6,137,567	45.84
November	8,634,383	2,680,412	11,314,795	4,510,655	39.87
December	8,883,284	1,680,282	10,563,566	4,613,638	43.68
1985:					
January	6,569,484	1,626,151	8,195,635	4,340,344	52.96
February	9,806,421	3,075,870	12,882,291	4,946,215	38.40
March	14,882,284	2,388,601	17,220,885	6,475,133	37.60

[1] Source: U.S. Department of Energy, Office of Oil Imports. Published by the American Petroleum Institute.

TABLE F.[1]—U.S. MOTOR GASOLINE IMPORTS

Country	1979	1980	1981	1982	1983	1984
	Quantity (barrels)					
Canada	4,531,209	3,436,964	3,779,825	3,536,791	7,536,968	9,409,936
Trinidad	5,553,343	5,388,588	3,257,604	3,129,886	2,155,750	697,464
China	619,074	2,558,675	6,766,684	9,558,862	10,371,483	10,453,208
Netherlands	2,451,221	590,823	6,092,091	11,374,829	15,380,505	14,699,948
Venezuela	758,911			1,388,306	11,667,668	22,416,610
Brazil				3,868,192	7,590,276	12,553,873
Italy	3,551,695	1,152,870	3,112,822	1,643,324	3,070,897	6,556,372
Romania			2,312,494	1,957,515	6,385,290	4,532,798
United Kingdom	376,750		26,059	475,709	2,223,182	4,516,943
Other	5,568,369	5,597,238	7,137,729	9,163,398	11,108,955	15,222,547
Totals	23,410,572	18,725,158	32,485,308	46,096,812	77,490,974	101,059,699
	Value ($1,000)					
Canada	131,510	129,536	153,476	142,333	265,121	311,489
Trinidad	129,301	203,215	134,276	127,826	80,046	23,308
China	21,615	81,809	258,744	336,824	308,895	303,072
Netherlands	108,807	24,575	242,094	411,547	511,117	466,398
Venezuela	25,219			53,058	406,491	718,939
Brazil				142,745	253,202	377,448
Italy	162,967	53,075	121,305	59,402	101,245	197,572
Romania			90,241	69,846	207,709	136,346
United Kingdom	12,517		1,052	17,172	76,182	141,373
Other	187,935	216,690	280,954	336,899	373,899	477,776
Totals	779,871	708,900	1,282,142	1,697,652	2,583,907	3,153,721

[1] Source: Official Statistics of the U.S. Department of Commerce (TSUSA No. 475.2520)

COLLIER, SHANNON, RILL & SCOTT,
Washington, DC, June 27, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: This letter, written on behalf of our client, the Society of Independent Gasoline Marketers of America ("SIGMA"), responds to the Subcommittee's request for comments on H.R. 2396, introduced by Congressman Matsui on May 7, 1985. SIGMA strongly endorses the enactment of H.R. 2396. Enactment of the bill would: (1) eliminate an obvious inequity between the treatment for tariff purposes of those products used as blendstocks or components to manufacture motor fuels and finished motor fuels; and (2) comport completely with the technical recommendations of the International Trade Commission contained in its report on this issue.[1] Specifically, SIGMA urges that H.R. 2396, which assures that motor fuel blendstocks are tariffed at a rate which does not exceed the rate of duty imposed upon finished motor fuels and achieves this objective without an unnecessary, anti-consumer increase in tariffs, be enacted.

SIGMA is a trade association comprised of approximatley 270 independent marketers and chain retailers of motor fuels. SIGMA's members market motor fuels in all 50 of the states and their sales represent between 10 and 15 percent of the domestic retail market for motor fuels. Marketers, such as SIGMA's members, consistently have been recognized as being the most price-competitive segment of the retail motor fuels market. Their ability to perform this function is premised upon the availability to them of competitively-priced supplies at the wholesale level. A significant source of such product for SIGMA's members has been the motor fuels manufactured domestically from imported blendstocks.

As was discussed in the ITC's Report, Customs has interpreted the tariff schedules in a manner which could impose substantially higher duties on components of motor fuels than the duty which is imposed on the finished product gasoline. This classification process has resulted in signifcant uncertainty with respect to the ability of companies, who historically manufactured finished motor fuels from imported components, to continue this process on an economic basis. Consequently, such manufacturers' ability to supply products to SIGMA's members at a competitive price has been impaired.

Enactment of H.R. 2396 will achieve several desirable objectives: (1) it will eliminate an inverted tariff and thereby eliminate the incentive to manufacture finished products offshore rather than in the domestic economy; (2) it will provide certainty to importers of blendstocks and the customers who depend upon such importers' manufacturing activities for sources of supply; (3) it will eliminate the obvious inequity in the tariff schedules without effecting the duty reduction for commodities which could have been, but were not, used as motor fuel blending components; and (4) will achieve these objectives without imposing injury on any segment of the domestic economy. Thus, enactment of H.R. 2396 would achieve several socially-desirable goals at no cognizable cost to the economy or the consumer.

SIGMA appreciates your interest in this matter and looks forward to the Subcommittee's prompt and favorable action on H.R. 2396.

Sincerely,

R. TIMOTHY COLUMBUS,
Counsel, Society of Independent Gasoline Marketers of America.

STATEMENT OF M.A. JOHNSON, ON BEHALF OF THE SOUTHLAND CORP. AND CITGO PETROLEUM CORP.

SUMMARY OF RECOMMENDATION

Adopt report language making clear that the new motor fuel blending stock tariff classification does not include reformer naphtha feedstock, an unfinished product, which must undergo further processing in a reformer during which the molecular structure of the reformer naphtha is rearranged to yield reformate, a motor fuel blending stock from which motor fuel is produced.

---

[1] Final Report on Investigation No. 332-203 Under Section 332(g) of the Tariff Act of 1930, USITC, Pub. No. 1686, Possible Effects of and Recommendations Concerning the Proposed Tariff Reclassification of Catalytic Naphtha and Other Motor Fuel Blending Stocks (April 1985) (hereinafter "ITC's Report").

STATEMENT

The Southland Corporation (Southland) is the nation's largest independent retailer of automotive gasoline. The CITGO Petroleum Corporation (CITGO), a wholly-owned subsidiary of Southland, operates a 330,000 barrel per day refinery which is the 10th largest in the United States and one of the most technologically sophisticated refineries in the world.

Through 7-Eleven, Super-7 and Quik Mart outlets, Southland expects to market more than two billion gallons of gasoline in 1985. Southland's success in gasoline marketing has been achieved by providing consumers quality motor fuel products at competitive prices 24 hours a day.

CITGO purchases domestic crude oil and imports crude oil to satisfy the requirements of its refinery in Lake Charles, Louisiana. CITGO also imports unfinished reformer during which the molecular structure of the reformer naphtha as a feedstock for its refinery's large reformer unit. Finally, to augment the volumes of gasoline produced by its refinery, CITGO has imported competitively-priced supplies of motor fuel blending stocks and finished motor fuels.

On May 18, 1985, Southland and CITGO filed Comments with the Trade Subcommittee in support of H.R. 5455 (98th Congress), a bill which would have rationalized the tariff treatment of motor fuel blending stocks. Regrettably, the provisions of that bill were not enacted into law. And, as predicted by supporters of that legislation, imports of motor fuel blending stocks, which had traditionally been dutied at the 1.25 cents per gallon rate applicable to motor fuel, began to be classified at lower effective rates of duty either as bezenoid mixtures (subject to zero duty under a GSP preference) or as naphtha.

Both H.R. 2354 and H.R. 2396 seek to rectify this situation by reunifying the tariff classification of motor fuel blending stocks with that of motor fuel. Consistent with our Comments on similar legislation in the 98th Congress, Southland and CITGO support this common aspect of both bills. In addition, H.R. 2354 would significantly increase the rate of duty applicable to motor fuel and motor fuel blending stocks. Southland and CITGO currently express no position with respect to the duty increase proposed in H.R. 2354.

The primary of these Comments is to focus on an important technical aspect of both bills. Both H.R. 2354 and H.R. 2396 prevent the classification of motor fuel blending stocks under TSUS Item 475.35 as "naphtha." The question will thus arise as to the classification of so-called "reformer naphtha" if H.R. 2354 or H.R. 2396 were enacted. Reformer naphtha is a feedstock for a reformer, a sophisticated unit of refinery equipment which "reforms" the molecular structure of the feedstock to produce a chemically different product (called "reformate"). This product, however, is not usually used directly as motor fuel. Rather, reformate is most often blended (physically mixed) with other refinery products and/or additivies to produce motor fuel (generally, no chemical reaction or molecular restructuring takes place during this mixing process). Under these circumstances, the language of both bills could result in classification of reformer naphtha feedstock as a motor fuel blending stock, rather than as naphtha, despite the fact that the reformer naphtha must undergo additional refinery processing (molecular transformation) before it actually beomes a motor fuel blending stock.

This result would be most undesirable because the same rate of duty would be established for an unfinished product, reformer naphtha (requiring further refinery processing), as for motor fuel blending stock, an almost completely finished product (requiring only physical blending to produce finished motor fuel). Establishing the same rate of duty under these circumstances would encourage the export of domestic reformer capacity, a result inconsistent with the objectives of the legislation.

Southland and CITGO urge the Subcommittee to make clear in the legislative history of these measures that the new motor fuel blending stock classification is not intended to apply to reformer naphtha which actually undergoes further refinery processing in a reformer unit during which the molecular structure of the reformer naphtha is changed to yield reformate from which motor fuel may be produced by blending (physical mixing) with other refined products and/or additives. Such legislative history would guard against a recurrence of the very uncertainty and classification confusion which currently exist and which both bills were intended to cure.

TOSCO CORP.,
Santa Monica, CA, June 28, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN GIBBONS: Tosco Corporation strongly supports Mr. Anthony's bill (H.R. 2354) on the tariff treatment of motor fuel and motor fuel blending stock. The bill would rationalize the relevant tariff categories, would provide a realistic tariff level for motor fuel and blending components, and would improve enforcement by applying an "actual use" test. The combined effect of these overdue changes would be relief from subsidized imports of foreign gasoline and assurance of sufficient domestic petroleum refining capacity to meet civilian and military needs for petroleum products.

Imports of gasoline and gasoline blending stocks are increasing dramatically as foreign export refineries are coming on stream. Because other major consuming countries continue to restrict imports of petroleum products, the U.S. has become the market of last resort. The domestic refining industry is being displaced by imports from foreign government-owned refineries which enjoy subsidized crude oil and operating costs.

Although Tosco supports your bill (H.R. 2451) to enforce our trade laws against products from subsidized natural resouce inputs, this legislation will not provide an effective remedy in time to avoid critical damage to the U.S. refining industry. Domestic refining capacity is already below the level needed to process domestic crude oil production and substantial crude oil from the Strategic Petroleum Reserve in the event of a supply interruption. Thus, prompt enactment of H.R. 2354 is needed to prevent further reduction of domestic capacity and greater damage to the Nation's energy security.

Very truly yours,

CHARLES P. EDDY,
Director, Government Relations.

TOSCO CORP.,
Santa Monica, CA, June 28, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN GIBBONS: Tosco Corporation must oppose Mr. Matsui's bill (H.R. 2396) to create a new tariff category for motor fuel blending stock at the low 1.25¢ per gallon rate applicable to motor fuels. This bill would expand the application of this low duty, which is currently limited to imports which are chiefly used as finished motor fuels. With gasoline imports rising dramatically and displacing U.S. refining capacity at an alarming rate, Congress should not expand the scope of this minimal tariff.

While H.R. 2396 would apply a strict "actual use" test in order to qualify for the new motor fuel blending stocks category, it fails to apply this test to the motor fuel category or to the non-motor fuel naphtha category. Because of this failure, the bill only partially implements the recent recommendation by the International Trade Commission to strengthen enforcement through use of "actual use" criteria. Thus, the net effect of H.R. 2396 would be to encourage and facilitate the importation of foreign blending components.

Very truly yours,

CHARLES P. EDDY,
Director, Government Relations.

VALERO ENERGY CORP.,
San Antonio, TX, June 28, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN GIBBONS: These are comments of Valero Energy Corporation on H.R. 2354, introduced by Congressman Beryl Anthony, and H.R. 2396, introduced by Congressman Robert Matsui, relating to the tariff treatment of imported gasoline and gasoline blendstocks. Valero completed construction of a modern, efficient refin-

ery in July, 1983. This refinery is capable of converting over 50,000 barrels per day of residuum into essentially all unleaded gasoline and distillates.

We offer our unqualified to H.R. 2354, which would create a two-tier tariff on imported gasoline and blendstocks. The bill would create a first-tier tariff of 10.8% ad valorem on the first 3,000,000,000 gallons of gasoline and blendstocks imported annually and the rate would double for any quantities over that. The bill would also implement the recent International Trade Commission recommendations in regard to classifications of blendstocks. We believe the first tier tariff and volume is fair to the consumer, the refiner, and our traditional sources of gasoline imports and the second tier provides for the national security which we believe is being threatened by the rising volume of gasoline and blendstock imports. Furthermore, if the bill had been applied to the 6,300,000,000 gallons of gasoline and blendstock imports in 1984, it would have increased Federal revenues $784 million or prevented further erosion of the nation's refining industry.

While we support H.R. 2451 which you have introduced, we believe that the U.S. refining industry is vital to our national security and that the industry needs immediate effective relief from both the recent increases in gasoline and blendstock imports, as well as the future increases. Under our current outmoded tariff structure, these products will come to our market both from the new OPEC refineries and the diversion of products from Europe and Japan who have higher ad valorem tariffs and more restrictive import policies.

The recent imports of gasoline and blendstocks have resulted in negative U.S. refinery operating margins and shut down of all but about 14 million barrels per day domestic refining capacity. Anyone who has started up a refinery knows that the "idle" capacity reported by the Department of Energy, (DOE) cannot be relied upon during an emergency. Anyone who has operated a refinery knows that achieving an 85 to 90 percent utilization rate is good performance. Therefore, the nations needs must not be gauged against the "operable" 15.7 million barrels per day as reported by DOE. Therefore, given our current domestic petroleum product needs, our national security is now vulnerable to a supply disruption in either imported crude oil or refined products. Consider the current wave of terrorism and add an incremental military mobilization demand to the current demand and the stage is set for disaster. Therefore, we urge you and the Congress to support H.R. 2354.

We believe the tariff rate established in the bill is fair to the consumer because it restores the tariff to the same ad valorem level it was when the tariff was instituted in 1958. It is fair to the industry in that it offsets the environmental expenditures that the industry has made on the behalf of the consumer at the direction of Congress. Since 1980, the U.S. refining industry has spent over $2.5 billion per year on preserving our environment. That amounts to a little over 2.5 cents per gallon of gasoline produced. Lead phasedown which the Environmental Protection Agency has adopted to prevent adverse health effects to our people will place our industry at a 4.5 cents per gallon incremental production cost disadvantage for the newly required low lead regular. (Foreign refiners who do not have to produce all of their gasoline as no lead and low lead can use relatively cheap lead derived octanes in the gasoline they consume domestically and export high octane gasoline or blendstock to the U.S. market and thereby, enjoy an unfair competitive advantage.) Effects of these factors are additive and amount to seven cents per gallon and thus, the propsed tariff increase barely offsets the competitive disadvantage we have created for our refining industry. Therefore, we urge you not to reduce the ad valorem rate specified in H.R. 2354.

Turning to H.R. 2396, introduced by Congressman Matsui of California, we are concerned that the bill does not have any provisions addressing the increased influx of imported products. While we applaud the bill's effort to rationalize the classification systems we must note that it would not provide any national security protection against our reduced refining capacity. Furthermore, since the bill establishes an actual use test only for the new category of motor fuel blending stocks, we are concerned that it does not apply an actual use test to the current motor fuel category or the non-motor fuel naphtha category. We feel this defect should be corrected.

To correct this defect, we suggest that customs be instructed to apply both an end use test and a quality screen to the cargoes for which the item 475.35 (Naphtha) classifcation is requested. Shippers routinely test the quality of naphtha to assure it has not been contaminated during shipment. Therefore, we recommend that customers be provided with copies of those analyses. Specifically, if the naphtha is found to contain more than 0.1 volume percent alcohol or 100 parts per billion lead by weight, it is probably suitable for use only as motor gasoline or gasoline blendstock and the higher tariff rate should prevail. If the excessive alcohol content is ethanol, the ethanol portion should be tariffed at the prevailing ethanol rate and the re-

maining hydrocarbons should be tariffed at the prevailing motor fuel rate. If the naphtha shipment has less than the above specified lead and alcohol contents, its research octane number (RON) should be determined. Should the RON be greater than 80, the naphtha is a likely candidate for use as a gasoline or gasoline blendstock because feedstock naphthas tend to have less octane. Therefore, customs should verify actual end use for these higher octane naphthas before granting them the 0.25 cents per gallon duty classifcation.

On behalf of Valero Energy Corporation, we would like to express appreciation for the opportunity to comment on these bills.

Sincerely,

W. E. GREEHEY,
Chairman of Board and Chief Executive Officer.

H.R. 2360

To suspend temporarily the duty on tungsten ore

U.S. International Trade Commission

Section-by-section analysis

Section 1 of the legislation would suspend the column 1 rate of duty [1] on tungsten ore for a three-year period beginning on the fifteenth day after its date of enactment. This would be be accomplished by inserting a new item 911.96 in the Appendix to the Tariff Schedules of the United States (TSUS) providing such duty-free treatment. The column 2 rate of duty [2] would not be affected.

Section 2 would make the Act effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day following the date of the enactment of the Act.

Background

Description and uses.—Tungsten is a sliver-gray metal which has good corrosion resistance, and good thermal and electrical conductivity. Thungsten is one of the heaviest elements, has the highest melting point of all metals, and at high temperatures has the highest tensile strength of all metals. Tungsten ore is the crude mineral form from which tungsten metal is obtained.

Most of the tungsten ore in the world is found in the minerals scheelite and wolframite; in many deposits, it occurs in association with molybdenum, copper, tin, bismuth, or antimony minerals. In a few deposits, tugnsten is a coproduct or minor byproduct of other metals. Tungsten ore is mined primarily by underground methods. It is milled to prepare tungsten bearing materials known as concentrates that can be treated to recover tungsten and associated byproduct and coproduct metals; milling operations are usually conducted at or near the mine site. The minerology of tungsten ores determines the technology and economics of the milling practice used. Generally, the ore is roasted to remove the sulfide mineral, pyrite, and is then concentrated by gravity or flotation separation methods including stage crushing, magnetic grinding, jigging, and tabling.

Tungsten concentrate is sold in units of tungsten trioxide (WO_3) and is the form in which tungsten ores are commercially available. Most tungsten concentrate is converted to ammonium paratungstate (APT), metal powder, carbide powder, ferrotungsten, or other intermediate products before being consumed in end uses; however, some scheelite is used directly in steelmaking. The extreme hardness of tungsten makes it a preferred metalworking material for cutting edges of machine tools subject to intense wear or abrasion, as well as for metal surfaces in forming and shaping dies. The mining and petroleum industries, for example, use considerable quantities of tungsten carbide in drill bits, in the cutting edges of earth moving equipment, and in crushing machinery.

Mill products made from tungsten metal powder are used by the electronics and electrical industries. Tungsten wire is used as the filament in electric lamps and as cathodes for electronic tubes. Disks produced from tungsten rods and sheets are used in automotive distributor points and as contact points in numerous manufactured products. Tungsten is also used as an alloy constituent in the production of

---

[1] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Commuist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Prefernces (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[2] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

high-speed steels, superalloys and nonferrous alloys to improve wear, abrasion, shock, and corrosion resistance.

In 1984 the end uses of tungsten were as follows: metalworking, mining and construction machinery and equipment, 75 percent; electrical machinery and equipment, 9 percent; lamps and lighting, 7 percent; transportation, 5 percent; and other, 4 percent.

Purpose.—According to industry sources, in the past few years there has been very little domestic tungsten concentrate available for the processing industry since (1) mine production has been at low levels for three years due to low concentrate market prices, and (2) most mine production has been captively consumed by producers in the production of APT. The United States relied on imports of tungsten ore and concentrate for over 55 percent of reported consumption for the past three years, with well over half of the imports entering duty-free as a result of the Generalized System of Prefernces (GSP).[3] Domestic mining/processing companies purchase imports to augment their own production and could therefore benefit from the temporary duty suspension, which would have the result of lowering the cost of the imported raw material.

Comparison with present law

Tariff treatment under the TSUS.—U.S. imports of tungsten ore and concentrate are classified in TSUS item 601.54. Table 1 shows the past, current, and future staged rates of duty applicable to the subject product.

TABLE 1.—TUNGSTEN: U.S. RATES OF DUTY BY TSUS ITEM

[Cents per pound on tungsten content]

TSUS item No.	Description	Pre-MTN col. 1 rate of duty	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
601.54	Tungsten ore	25¢	17¢	17¢	17¢	17¢	17¢	17¢	17¢	17¢	50¢.

Tungsten ore is eligible for duty-free entry under both the GSP and the Caribbean Basin Economic Recovery Act (CBERA).[4]

Tariff treatment under the Proposed Harmonized System (HS).—Imports of tungsten ore and concentrate would be classified in item 2611.00.00 under the proposed Harmonized System. Proposed rates of duty to be applicable on U.S. implementation of the HS are presented in table 2.

TABLE 2.—TUNGSTEN: RATES OF DUTY UNDER PROPOSED HARMONIZED SYSTEM

Heading	Description	Rates of duty	
		Col. 1—Gen.	Col. 2
2611.00.00	Tungsten ore and concentrate	37.5¢/kg. on tungsten content.	$1.10/kg. on tungsten content.

[3] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversity and expand their production and exports. The U.S GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[4] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

Structure of the domestic industry

The tungsten industry is highly concentrated, and most companies are vertically integrated. Companies operating mines and processing plants, along with their locations, are as follows:

Tungsten mines:	
Climax Molybdenum Co./AMAX, Inc.	Leadville, Colorado
Curtis Tungsten Co.	Los Angeles, California
General Electric	Imlay, Nevada
Teledyne Tungsten	North Fork, California
Union Carbide	Bishop, California
Union Carbide	Tempuite, Nevada
Tungsten processors:	
AMAX, Inc., AMAX Tungsten Div.	Fort Madison, Iowa
Fansteel Inc.	North Chicago, Illinois
General Electric Co.	Euclid, Ohio
General Electric Co.	Detroit, Michigan
GTE Products Corp.	Tonawanda, Pennsylvania
Kennametals Inc.	Latrobe, Pennsylvania
Kennametals Inc.	Fallon, Nevada
Li Tungsten Corp.	Glen Cove, New York
North American Phillip Lighting Corp.	Bloomfield, New Jersey
Teledyne Firth Sterling	Pittsburgh, Pennsylvania
Teledyne Wah Chang Huntsville	Huntsville, Alabama

In 1984, about 95 percent of the domestic tungsten concentrate production came from the mines in California and Colorado (Union Carbide, Teledyne Tungsten, and Climax Molybdenum Co./AMAX Inc.). Most major domestic mines operated below capacity or were temporarily closed, primarily due to low concentrate prices and demand. Teledyne Tungsten operated at full capacity but was closed during the winter months due to weather conditions. In the spring of 1984, Curtis Tungsten Co. began production at a mine near Los Angeles.

The Union Carbide mine near Bishop, California was operated part of the time at reduced levels. AMAX renewed tungsten production as a byproduct of molybdenum production at the mine near Leadville, Colorado. Two major mines, Union Carbide's mine near Tempuite, Nevada and the General Electric mine near Imlay, Nevada, were closed throughout 1983–84 because concentrate market prices were lower than production costs.

The domestic tungsten mines and mills employed about 300 persons in 1984.

Domestic production

Domestic mine production and shipments were as following during 1980–84: [5]

Year	Production (1,000 pounds)	Shipments (1,000 pounds)	Value (1,000 dollars)
1980	6,072	6,036	50,575
1981	7,948	7,816	62,231
1982	3,354	3,472	22,062
1983	2,160	2,240	10,528
1984	2,652	2,586	13,000

Mine capacity unilization was 24 percent in 1984.

U.S. imports

Data on total imports and on imports under the GSP, by quantity and value, during 1980–84 are shown in table 3. In 1984 tungsten ore was supplied by Canada (25 percent), Bolivia (22 percent), Thailand (13 percent), Portugal (10 percent) and Peru (10 percent). There were no imports of tungsten ore from column 2 sources. Of the GSP imports, Bolivia accounted for 32 percent; Thailand, 18 percent; Portugal, 15 percent; and Peru, 15 percent.

Tungsten processors are the major importers of tungsten ore along with several metal trading firms, including Philipp Brothers, Inc., New York; Cometals, Inc., New York; and Kolon Trading Co. Inc., New Yorl.

[5] U.S. Bureau of Mines.

TABLE 3.—TUNGSTEN ORE: TOTAL IMPORTS AND IMPORTS UNDER THE GENERALIZED SYSTEM OF PREFERENCES (GSP), AND GSP IMPORTS AS A PERCENT OF TOTAL IMPORTS, 1980–84

Year	Total imports	GSP imports	GSP imports as a percent of total imports
	Quantity (1,000 pounds, tungsten content)		
1980	11,372	5,736	50.4
1981	11,752	6,394	54.4
1982	7,778	3,850	49.5
1983	6,307	4,362	69.2
1984	12,806	8,928	69.7
	Value (1,000 dollars)		
1980	87,129	42,991	49.3
1981	91,195	48,791	53.5
1982	46,748	23,002	49.2
1983	25,717	17,585	68.4
1984	51,715	36,569	70.7

Source: Compiled from official statistics of U.S. Department of Commerce.

U.S. exports

U.S. exports of tungsten ores during 1980–84 were as follows:

Year	Quantity (1,000 pounds, tungsten content)	Value (1,000 dollars)
1980	2,029	15,454
1981	175	1,150
1982	672	3,387
1983	2	11
1984	284	1,240

The markets for tungsten ore in 1984 were West Germany, 38 percent; Austria, 22 percent; Brazil, 19 percent; Mexico, 16 percent; and France 5 percent.

U.S. consumption

Consumption of tungsten concentrates as reported by the U.S. Bureau of Mines was as following during 1980–84, in thousands of pounds of contained tungsten:

1980	20,432
1981	21,692
1982	19,870
1983	11,422
1984	18,910

Effect on revenue

Based on the leves of total and GSP imports of tungsten ore in 1984, it is estimated that enactment of this legislation would result in the loss of customs revenues of approximately $659,000 annually.

Technical comments

In order to be consistent with the numbering scheme and format now used in the TSUS, it is suggested that new item 911.96 be redesignated as 910.95 and that the "Effective Date" column be amended to provide a date certain for the expiration of the new item, such as "On or before 12/31/88".

AMAX METALS GROUP,
ALLOY DIVISION,
Greenwich, CT, June 27, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Longworth Building, Washington, DC.

DEAR MR. CHAIRMAN: In response to your May 16 request for comments on miscellaneous tariff and trade bills, AMAX Tungsten wishes to express its strong support for H.R. 2630, to suspend the duty on tungsten ore.

The U.S. produces less than one-third of its tungsten ore needs and is the only developed country that currently maintains a duty on tungsten ore. AMAX, like other domestic tungsten producers and processers, is heavily dependent on ore imports to supply adequate raw material for our conversion facilities. The proposed duty suspension will reduce our raw material costs and lower the overall cost of tungsten production at our Ft. Madison, Iowa processing plant, thus improving our competitive position in the market.

As you well know, most domestic mining and minerals companies are presently experiencing severe economic problems. H.R. 2360 will assist both producers and consumers of tungsten in their efforts to remain a viable part of the strategically important U.S. minerals industry.

Yours truly,

JOSEPH B. SUTLIFF,
Vice President-Sales, North America.

H.R. 2362

To establish equal and equitable classification and duty rates for certain imported citrus products

See statement of California Farm Bureau Federation, Henry J. Voss, under H.R. 110.

U.S. International Trade Commission

Section-by-section analysis

H.R. 2362,[1] if enacted, would add two new items to the Tariff Schedules of the Untied States (TSUS) to provide tariff treatment for imports of grapefruit juice comparable to that provided for orange juice in legislation that became effective January 1, 1985.

Currently, not concentrated grapefruit juice is dutiable at a column 1 [2] duty rate of 20 cents per gallon, and concentrated grapefruit juice is dutiable at a column 1 rate of 35 cents per gallon.[3] The rate for not concentrated juice applies to both natural (fresh) juice and to juice produced from concentrated juice (reconstituted). The effect of this legislation would be to make the rate of duty applicable to not concentrated grapefruit juice apply only to natural unconcentrated grapefruit juice and not to reconstituted grapefruit juice. Currently, foreign grapefruit juice concentrate can be exported to a third country, reconstituted, and then entered into the United States as a not concentrated citrus juice at the lower rate of duty.

Background

Description and uses.—Grapefruit juice is derived from the fruit of subtropical evergreen trees of the grapefruit, genus Citrus, family Rutaceae. The grapefruit juice covered by this bill may not be mixed with other fruit juices, but may be sweetened or unsweetened, not concentrated (single-strength) or concentrated, and may not contain over 1 percent of ethyl alcohol by volume. If concentrated, the juice may be in liquid, powdered, or solid form.

Grapefruit juice is marketed at retail primarily in the forms of frozen concentrate, canned (pasteurized) single-strength juice, chilled single-strength juice in bottles and cartons, and mixtures with other single-strength juice in bottles and cartons, and mixtures with other single-strength fruit juice. Grapefruit juice used for further processing, chiefly into single-strength juice, is usually packed in highly concentrated frozen form. In addition to its use as a beverage, it is an important base for soft drinks and is also used to flavor cakes and candy.

Purpose.—The purpose of the bill is to close a perceived loophole in the TSUS that could allow highly concentrated grapefruit juice to be brought into foreign trade zones for processing and then entry into U.S. customs territory at a duty rate of 20 cents per gallon, rather than the 35 cents that is applicable to imported concentrates.[4] The sale of this reconstituted product entered at the lower rate of duty would have a severe price depressing effect on U.S. production. A similar "loophole"

---

[1] A companion bill, S. 1111, 99th Congress, is currently pending before the Seante Finance Committee.

[2] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnoed 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[3] The duty rate is per gallon of single-strength equivalent juice.

[4] 131 Cong. Rec. E1927 (daily ed. May 2, 1985) (remarks of Mr. Ireland).

has already been closed for orange juice, but unless it is also closed with respect to grapefruit juice, there may be a shift in production to the latter product.[5]

Comparison with present law

Tariff treatment under the TSUS.—Grapefruit juice which is not mixed, not concentrated, and does not contain over 1.0 percent of ethyl alcohol by volume, is classified for tariff purposes under TSUS item 165.32. This item includes all citrus fruit juices, other than lime and orange juice, with these characteristics. The column 1 rate of duty applicable to this item is 20 cents per gallon (10.4 percent ad valorem equivalent in 1984), and the column 2 [6] rate is 70 cents per gallon. Included under this item are juices which are reconstituted from concentrate.

Grapefruit juice which is concentrated is classified under TSUS item 165.36. This item includes all concentrated cirtus fruit juices, other than lime and orange juice, which are not mixed and do not contain over 1.0 percent of ethyl alcohol by volume. The column 1 rate of duty applicable to this item is 35 cents per gallon (27.7 percent ad valorem equivalent in 1984) [7] and the column 2 rate is 70 cents per gallon.

Items 165.32 and 165.36 are not eligible for duty-free treatment under the Generalized System of Preferences (GSP),[8] and no least developed developing country (LDDC) [9] rates are provided. Imports from designated Caribbean countries could be eligible for duty-free treatment under the Caribbean Basin Economic Recovery Act (CBERA).[10] Staged rate reductions were not negotiated for these tariff provisions in the Tokyo Round of Multilateral Trade Negotiations (MTN). Under the recently negotiated free-trade agreement with Israel [11] items 165.32 and 165.36 were designated sensitive articles and excluded from the benefits of duty-free treatment for a period of 5 years.

Tariff treatment under the proposed Harmonized System (HS).—The tariff treatment for grapefruit juice under the proposed Harmonized System (HS) is shown in exhibit 1.

Structure of the domestic industry

U.S. processing firms that produce grapefruit juice generally also process orange juice, but in significantly larger quantities than the production of grapefruit juice. Nationally, an estimated 40 firms process grapefruit juice from fresh fruit and nearly seven-eighths of them are located in Florida. The number of firms processing citrus juice in Florida, as reported by the Florida Citrus Processors Association, has declined irregularly, as shown in the following tabulation:

Processing firms

Crop year:	
1979/80	36
1980/81	37
1981/82	36
1982/83	31
1983/84	33

[5] Id.

[6] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[7] For concentrated juice, the duty is calculated on the number of gallons of reconstituted single-strength juice which can be made from a gallon of the concentrate.

[8] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[9] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[10] The CBERA affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67 and implemented by Presidential Proclamation 5133 of November 30, 1983, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; it is scheduled to remain in effect until September 30, 1995. It provides duty-free entry to eligible articles imported directly from designated Basin countries.

[11] These trade negotiations were authorized under Title IV of the Trade and Tariff Act of 1984, Public Law 98-573.

A list of the current members of the Florida Citrus Processors Association is attached as exhibit 2. The five largest producers of grapefruit juice are believed to account for nearly one-half of the Florida production of grapefruit juice and are believed to be the following companies: TreeSweet Products Co., Southern Fruit Distributors, Inc., Lykes Pasco Packing Company, Ocean Spray Cranberries, Inc., and Tropicana Products, Inc. In Texas, producers of grapefruit juice include Texas Citrus Exchange in Mission, Tex., and Texsun Corporation in Weslaco, Tex. In California, Sunkist Growers, Inc. is the largest producer of grapefruit juice.

Domestic production

U.S. production of grapefruit juice (on a single-strength equivalent basis) averaged 170 million gallons annually during 1980–82, and declined to an annual average of 110 million gallons during 1983–84 (table 1). Florida supplied about 80 percent of the domestic production over the 5-year period. Both Florida and other States showed a reduced output during 1983–84 when compared to the preceding 3-year period. While much of Florida's production of concentrated grapefruit juice is later reconstituted to produce single-strength juice before sale to the ultimate consumer, the share of Florida's total production that is initially concentrated increased from 54 percent in 1980 to 79 percent in 1984. Thus, the quantity of single-strength grapefruit juice produced directly from fresh grapefruit in Florida has declined dramatically from 66 million gallons in 1980 to 20 million gallons in 1984.

U.S. imports

Separate statistics for U.S. imports of grapefruit juice are not available. U.S. imports of not concentrated grapefruit juice are estimated to have been less than 1 million gallons annually during 1980–84. In 1984, when not concentrated orange juice was excluded from the basket class for the first time, U.S. imports of other not concentrated citrus fruit juices (predominately grapefruit juice) totaled 1.1 million gallons and 84 percent of the imports were from Canada.

In 1984 U.S. imports of other concentrated fruit juices (predominantly grapefruit juice) totaled 3 million single-strength equivalent gallons, valued at $3.5 million (table 2). The primary suppliers in 1984 were Brazil (39 percent), Belize (34 percent), and Mexico (19 percent). The imports from Belize in 1984 entered free of duty under the CBI. No imports were from that source during 1980–83.

U.S. exports

During 1980–84 U.S. exports of grapefruit juice, both not concentrated and concentrated (measured on a single-strength basis), were equivalent to 12 percent of domestic production. Exports declined irregularly from 18.3 million gallons in 1980 to 15.5 million gallons in 1984, which is a smaller percentage decline (15 percent) than the decline in production (39 percent). Japan, Canada, and West Germany were the principal export markets for grapefruit juice in 1984 (table 3).

Apparent U.S. consumption

During 1980–84, the apparent U.S. consumption of grapefruit juice declined irregularly from 163 million gallons in 1980 to 97 million gallons in 1984 (table 4). Average annual U.S. consumption during 1983–84, after several freezes in producing States, was 99 million gallons, down 37 percent from the average annual 156 million gallons consumed during 1980–82. Nearly all of this decline may be accounted for by a decline in production, which fell 35 percent between the two periods. The ratio of imports of "other citrus juice" to consumption of grapefruit juice did not exceed 6 percent during 1980–84, and was generally in the range of 1 percent to 3 percent.

Effect on revenue

The potential annual gain in customs revenues resulting from enactment of this legislation would be about $165,000, based on dutiable imports in 1984. This estimate is based on the assumptions that all imported not concentrated other citrus fruit juice in 1984 was made from reconstituted grapefruit juice concentrates, and that all imported concentrated citrus fruit juice other than lime or orange entered in 1984 was concentrated grapefruit juice.[12]

GATT comments

The present rate of duty on not concentrated citrus fruit juices has been bound under Article II of the General Agreement on Tariffs and Trade (GATT). Therefore,

---

[12] It can be assumed that most not concentrated other citrus fruit juice imported in 1984 was made from reconstituted grapefruit juice and that most imported concentrated other citrus fruit juice was grapefruit juice.

if this legislation were to have the effect of increasing the duty above the agreed level,[13] the United States could be subject to claims by affected contracting parties for compensatory concessions, or to retaliatory withdrawal of benefits previously granted to the United States.

Technical comments

The bill proposes to remove from the basket categories items 165.32 and 165.36 the product which accounts for most of the imports under those items. Therefore, we suggest that these categories be redesignated as items 165.37 and 165.38. In addition, the item number proposed for not concentrated grapefruit juice, item 165.30, has been used recently in the TSUS. Therefore, we suggest that items 165.31 and 165.34 be used for the two grapefruit provisions.

In order to implement the above changes we propose that lines 5 to the end of the bill be stricken and that the following language be inserted in its place: inserting after item 165.29 the following new items and superior headings thereto, with the superior headings at the same indentation level as the article description "lime" in item 165.25:

	Grapefruit:		
165.31	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree).	20¢ per gal.	70¢ per gal.
165.34	Other	35¢ per gal.	70¢ per gal.
	Other:		
165.37	Not concentrated	20¢ per gal.	70¢ per gal.
165.38	Concentrated	35¢ per gal.	70¢ per gal.

SEC. 2. The amendments made by the first section of this Act apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day following the date of enactment of this Act.

TABLE 1.—GRAPEFRUIT JUICE: U.S. PRODUCTION, IN FLORIDA, BY TYPE, AND IN OTHER STATES, CROP YEARS ENDING 1980–84

[In thousands of gallons, single-strength equivalent]

Crop year ending—	Florida			Other States[2]	Total
	Concentrated	Single strength[1]	Total		
1980	77,771	66,480	144,251	35,000	179,251
1981	83,053	50,848	133,901	25,000	158,901
1982	87,475	45,961	133,436	40,000	173,436
1983	57,933	25,987	83,920	27,000	110,920
1984	77,164	20,232	97,396	12,000	109,396

[1] Chilled grapefruit juice and canned grapefruit juice produced from fruit (does not include product produced from concentrates).
[2] Estimate based on the number of boxes of grapefruit processed in Arizona, California, and Texas.

Source: Production in Florida from the Florida Department of Citrus and production in other States compiled from official statistics of the U.S. Department of Agriculture, as noted.

[13] Although this legislation maintains the duty rates applicable to both not concentrated and concentrated grapefruit juice, it is designed to ensure that the higher rate for concentrated juice applies to reconstituted juice currently classified as not concentrated. Thus, the legislation could have the effect of raising the duty rate applicable to this product.

TABLE 2.—CITRUS FRUIT JUICE, NOT SPECIALLY PROVIDED FOR, CONCENTRATED, NOT MIXED: [1] U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1980–84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 gallons, single-strength equivalent)				
Brazil	739	0	8,496	1,484	1,176
Belize	0	0	0	0	1,022
Mexico	115	595	207	304	571
West Germany	38	173	573	299	95
Jamaica	0	0	([2])	0	108
France	0	0	0	13	55
Netherlands	0	0	0	0	13
Argentina	991	371	371	1,174	0
All other	60	157	55	343	6
Total	1,946	1,296	9,702	3,617	3,046
	Value (1,000 dollars)				
Brazil	317	.....	6,666	504	1,433
Belize	.....	.....	.....	.....	911
Mexico	133	524	184	106	492
West Germany	149	462	2,047	1,032	362
Jamaica	.....	.....	([3])	.....	121
France	.....	.....	.....	25	86
Netherlands	.....	.....	.....	.....	32
Argentina	1,449	181	189	413	.....
All other	149	171	94	815	21
Total	2,197	1,338	9,180	2,895	3,458
	Unit value (per gallon, single-strength equivalent)				
Brazil	$0.43	.....	$0.78	$0.34	$1.22
Belize	.....	.....	.....	.....	.89
Mexico	1.15	$0.88	.89	.35	.86
West Germany	3.96	2.68	3.57	3.45	3.79
Jamaica	.....	.....	39.08	.....	1.12
France	.....	.....	.....	1.89	1.56
Netherlands	.....	.....	.....	.....	2.41
Argentina	1.46	.49	.51	.35	.....
All other	2.48	1.09	1.71	2.38	3.50
Average	1.13	1.03	.95	.80	1.13

[1] Includes concentrated grapefruit juice. During 1980–83, this statistical class did not include lime or orange juice, and during 1984, this statistical class did not include lime, orange, or lemon juice.
[2] Less than 500 gallons.
[3] Less than $500.
Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 3.—GRAPEFRUIT JUICE, CONCENTRATED AND NOT CONCENTRATED: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84

Market	1980	1981	1982	1983	1984
	Quantity (1,000 gallons, single-strength equivalent)				
Japan	2,507	5,151	3,566	3,854	4,418
Canada	6,870	7,340	5,544	4,090	4,008
Federal Republic of Germany	960	1,374	1,377	1,245	2,160
United Kingdom	2,169	1,433	914	499	1,013
Italy	284	478	445	344	313
France	662	563	515	417	317

TABLE 3.—GRAPEFRUIT JUICE, CONCENTRATED AND NOT CONCENTRATED: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1980–84—Continued

Market	1980	1981	1982	1983	1984
Israel	859	2	2	304	643
Netherlands	1,690	597	2,434	888	576
Saudi Arabia	339	338	501	355	248
Switzerland	464	676	352	300	512
All other	1,542	1,950	2,073	2,062	1,320
Total	18,348	19,902	17,722	14,360	15,528
	Value (1,000 dollars)				
Japan	3,936	7,763	4,866	4,888	8,611
Canada	12,376	12,678	9,659	7,446	7,512
Federal Republic of Germany	1,351	1,530	1,438	998	1,549
United Kingdom	3,624	2,069	962	597	925
Italy	669	1,085	1,245	750	809
France	1,274	1,217	1,101	902	769
Israel	1,173	4	4	288	651
Netherlands	3,105	762	2,386	693	585
Saudi Arabia	578	721	877	635	552
Switzerland	898	838	404	333	538
All other	2,485	2,934	2,961	2,878	2,418
Total	31,468	31,602	25,902	20,408	24,920
	Unit value (per gallon, single-strength equivalent)				
Japan	1.57	1.51	1.36	1.27	1.95
Canada	1.80	1.73	1.74	1.82	1.87
Federal Republic of Germany	1.41	1.11	1.04	.80	.72
United Kingdom	1.67	1.44	1.05	1.20	.91
Italy	2.35	2.27	2.80	2.18	2.58
France	1.92	2.16	2.14	2.16	2.42
Israel	1.36	2.59	2.43	.95	1.01
Netherlands	1.84	1.28	.98	.78	1.02
Saudi Arabia	1.71	2.13	1.75	1.79	2.22
Switzerland	1.93	1.24	1.15	1.11	1.05
All other	1.61	1.50	1.43	1.40	1.83
Average	1.72	1.59	1.46	1.42	1.60

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 4.—GRAPEFRUIT JUICE: U.S. PRODUCTION, EXPORTS OF DOMESTIC MERCHANDISE, IMPORTS FOR CONSUMPTION, AND APPARENT CONSUMPTION, 1980–84

[In thousands of gallons, single-strength equivalent]

Year	Production [1]	Exports	Imports [2]	Apparent consumption	Ratio (percent) of imports to consumption [2]
1980	179,251	18,348	1,943	162,848	1
1981	158,901	19,902	1,296	140,295	1
1982	173,436	17,722	9,702	165,416	6
1983	110,920	14,360	3,617	100,177	4
1984	109,396	15,528	3,046	96,914	3

[1] Data are for crop years ending in the years indicated.
[2] Imports of concentrated citrus fruit juice not specifically provided for; data include grapefruit juice, lemon juice (during 1980–83); and miscellaneous citrus fruit juices, excluding orange and lime.

Source: Production, compiled from the Florida Department of Citrus and official statistics of the U.S. Department of Agriculture; exports and imports, compiled from official statistics of the U.S. Department of Commerce.

EXHIBIT 1

TRADE POLICY STAFF COMMITTEE
OFFICE OF THE U.S. TRADE REPRESENTATIVE
WASHINGTON, D.C. 20506

CONVERSION OF THE TARIFF SCHEDULES OF THE UNITED STATES INTO THE NOMENCLATURE STRUCTURE OF THE HARMONIZED SYSTEM, REVISED, SHOWING ADMINISTRATIVE CHANGES APPROVED BY THE TRADE POLICY STAFF COMMITTEE

SEPTEMBER 1984

TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED

(Converted to the Harmonized System and reflecting final MTN concession rates of duty)

20-6

Heading	Stat Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	1 Special	2
2008 (con.)		Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included (con.):				
		Other, including mixtures other than those of subheading 2008.19 (con.):				
2008.99 (con.)		Other (con.):				
		Berries:				
2008.99.18	00	Blueberries	kg	3.5%		35%
2008.99.20	00	Other	kg	7%		35%
2008.99.23	00	Cashew apples, mameyes colorados, sapodillos, soursops and sweetsops	kg	2.8%		35%
2008.99.25	00	Dates	kg	35%		35%
2008.99.28	00	Figs	kg	12%		40%
2008.99.30	00	Guavas	kg	Free		35%
2008.99.35	00	Lychees	kg	14%		35%
2008.99.40	00	Mangoes	kg	3.3c/kg		33c/kg
		Papayas:				
2008.99.45	00	Pulp	kg	17.5%		35%
2008.99.50	00	Other	kg	4%		35%
2008.99.60	00	Plums, prunes and prunelles	kg	17.5%		35%
2008.99.61	00	Soybeans	kg	8.5%		35%
2008.99.63	00	Sweet ginger	kg	9%		35%
2008.99.65	00	Yucca	kg	17.5%		35%
		Other:				
2008.99.80	00	Pulp	kg	15%		35%
2008.99.90		Other		7%		35%
	10	Bean cake, bean stick, miso and similar products	kg			
	90	Other	kg			
2009		Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter:				
		Orange juice:				
2009.11.00	00	Frozen	litere	9.25c/liter		18c/liter
2009.19		Other:				
2009.19.20	00	Not concentrated	litere	5.3c/liter		18c/liter
2009.19.40	00	Concentrated	litere	9.25c/liter		18c/liter
2009.20		Grapefruit juice:				
2009.20.20	00	Not concentrated	litere	5.3c/liter		18c/liter
2009.20.40	00	Concentrated	litere	9.25c/liter		18c/liter
2009.30		Juice of any other single citrus fruit:				
		Lime:				
2009.30.10	00	Unfit for beverage purposes	kg	2.76c/kg		11c/kg
2009.30.20		Other		2.4c/liter		18c/liter
	20	Not concentrated	litere			
	40	Concentrated	litere			
		Other:				
2009.30.40	00	Not concentrated	litere	5.3c/liter		18c/liter
2009.30.60	00	Concentrated	litere	9.25c/liter		18c/liter
2009.40		Pineapple juice:				
2009.40.20	00	Not concentrated, or having a degree of concentration of not more than 3.5 degrees (as determined before correction to the nearest 0.5 degree)	litere	5.3c/liter		18c/liter
2009.40.40	00	Other	litere	1.3c/liter		18c/liter
2009.50.00	00	Tomato juice	litere	0.3c/liter		4c/liter
2009.60.00		Grape juice (including grape must)		0.4c/liter		24c/liter
	20	Not concentrated	litere			
	40	Concentrated	litere			
2009.70.00	00	Apple juice	litere	Free		1.3c/liter
2009.80		Juice of any other single fruit or vegetable:				
2009.80.20	00	Pear juice	litere	Free		1.3c/liter
2009.80.40	00	Prune juice	litere	1c/liter		18c/liter
2009.80.60	00	Other	litere	0.8c/liter		18c/liter
2009.90.00	00	Mixtures of juices	litere	9.25c/liter		18c/liter

EXHIBIT 2.—FLORIDA CITRUS PROCESSORS ASSOCIATION MEMBER COMPANIES

Adams Packing Association, Inc., P.O. Box 37, Auburndale, Florida 33823 Telephone: A/C 813 967-4431
Alcoma Packing Company, Inc., P.O. Box 231, Lake Wales, Florida 33853 Telephone: A/C 813 696-1487
Allsun Products, Inc., P.O. Box 338, Highland City, Florida 33846 Telephone: A/C 813 646-1418
American Orange Corporation, P.O. Box 999, Arcadia, Florida 33821 Telephone: A/C 813 494-0440
Ardmore Farms, Inc., P.O. Box 183, Deland, Florida 32720 Telephone: A/C 904 734-4634
B&W Canning Company, Inc., P.O. Box 1133, Orlando, Florida 32802 Telephone: A/C 305 841-0011
Ben Hill Griffin Citrus Company, P.O. Box 2000, Frostproof, Florida 33843 Telephone: A/C 813 635-2211
Berry Citrus Products, Inc., P.O. Box 5609, Winter Haven, Florida 33880-0415 Telephone: A/C 813 324-4988 (LaBelle—813 675-2769)
Bordo Citrus Products Cooperative, P.O. Box 1152, Winter Haven, Florida 33882 Telephone: A/C 813 294-5951
Caulkins Indiantown Citrus Company, P.O. Box 458, Indiantown, Florida 33456 Telephone: A/C 305 597-3511
Citrus Belle, P.O. Box 536, LaBelle, Florida 33935 Telephone: A/C 813 675-0336
Citrus Service, Inc., P.O. Box 218, Winter Garden, Florida 32787 Telephone: A/C 305 656-3233
Citrus World, Inc., P.O. Box 1111, Lake Wales, Florida 33853 Telephone: A/C 813 676-1411
Coca-Cola Foods, A Division of the Coca-Cola Company, P.O. Box 247, Auburndale, Florida 33823 Telephone: A/C 813 967-6611
Cook's Processing, Inc., P.O. Box 1597, Haines City, Florida 33844 Telephone: A/C 813 422-1121 (Plant: 3155 Winter Lake Road, Lakeland Florida 33801 813 665-5415)
Florida Food Products, Inc., P.O. Box 1300, Eustis, Florida 32726 Telephone: A/C 904 357-4141
Golden Gem Growers, Inc., Drawer 9, Umatilla, Florida 32784 Telephone: A/C 904 669-2101
Holly Hill Fruit Products Co., Inc., P.O. Box 708, Davenport, Florida 33837 Telephone: A/C 813 422-1131
H.P. Hood, Inc., 427 San Christopher Drive, Dunedin, Florida 33528 Telephone: A/C 813 733-2121
Indian River Foods, Inc., P.O. Box 1749, Fort Pierce, Florida 33454 Telephone: A/C 305 464-5770
Juice Bowl Products, Inc., P.O. Box 1048, Lakeland, Florida 33802 Telephone: A/C 813 665-5515
Kraft, Inc., P.O. Drawer B-N, Lakeland, Florida 33802 Telephone: A/C 813 686-1173
Lykes Pasco Packing Company, P.O. Box 97, Dade City, Florida 34297-0097 Telephone: A/C 904 567-5211
Ocean Spray Cranberries, Inc., 925 74th Avenue, S.W., Vero Beach, Florida 32962 Telephone: A/C 305 562-0800
Orange-Co of Florida, Inc., P.O. Box 2158, Bartow, Florida 33830 Telephone: A/C 813 533-0551
Silver Springs Citrus Cooperative, P.O. Box 1046, Winter Garden, Florida 32787 Telephone: A/C 305 656-1122
Southern Fruit Distributors, Inc., P.O. Box 8367, Orlando, Florida 32856 Telephone: A/C 305 859-3550
Southern Gold Citrus Products, Inc., Food Products Division, The Seven-Up Company, P.O. Box 7538, Orlando, Florida 32854 Telephone: A/C 305 295-0461
Sun Pac Foods, Inc., P.O. Box 9365, Winter Haven, Florida 33883 Telephone: A/C 813 533-0808
Sunstar Foods, Inc., Citrus Division, P.O. Box 950, Lakeland, Florida 33802 Telephone: A/C 813 858-4491
TreeSweet Products Co., P.O. Box 189, Fort Pierce, Florida 33454 Telephone: A/C 305 461-3800
Tropicana Products, Inc., P.O. Box 338, Bradenton, Florida 33506 Telephone: A/C 813 747-4461

Winter Garden Citrus Products Cooperative, P.O. Box 399, Winter Garden, Florida 32787 Telephone: A/C 305 656-1000

STATEMENT OF BOBBY F. MCKOWN, EXECUTIVE VICE PRESIDENT, FLORIDA CITRUS MUTUAL

SUMMARY

(1) Florida Citrus Mutual is an association of citrus growers and processors accounting for the majority of U.S. production of processed grapefruit products.

(2) H.R. 2352 would correct a classification loophole in the current Tariff Schedules of the United States whereby imported grapefruit juice can circumvent the intended tariff for the concentrate through reconstitution or minor processing to take advantage of lower rate of duty. The bill would provide that grapefruit juice made from the concentrated product will be classifiable and dutiable at the rate applicable to concentrated product.

(3) Grapefruit juice is an import-sensitive commodity. The indsutry has been depressed for an extended period, and its recovery could be severly compromised by circumvention of the intended import duty.

(4) Grapefruit juice was recognized as a sensitive commodity in the context of the U.S.-Israel Free Trade Area, the Caribbean Basin Initiative, and the Generalized System of Preferences program. The Congress corrected a similar anomaly for orange juice in the Trade and Tariff Act of 1984, but the potential for circumvention still exists for grapefruit juice.

(5) Enactment of H.R. 2362 would benefit growers of grapefruit for processing in Florida, Texas, California, and Arizona, and would assure that the intended tariff for concentrated juice is not avoided by minor processing.

(6) FCM supports the intent of H.R. 1249, which corresponds with H.R. 2362 in closing the tariff classification loophole, but opposes the proposal in H.R. 1249 to unilaterally lower duty rates applicable to single strength and concentrated grapefruit juices.

STATEMENT

This submission is made on behalf of Florida Citrus Mutual, Lakeland, Florida ("FCM"), in response to the invitation for comments of the Subcommittee on Trade, Committee on Ways and Means (Release No. 8, May 16, 1985) on Certain Tariff and Trade Bills. FCM supports, and urges the Subcommittee to report favorable on H.R. 2362, a bill to establish equal and equitable classification and duty rates for certain imported citrus products, namely, grapefruit juice.

FCM is a voluntary cooperative association of citrus growers and processors, representing more than 90% of the orange, grapefruit and other citrus growers of the state of Florida. FCM's membership include 13,046 active growers and numerous processors of citrus products, including frozen concentrated grapefruit juice.

H.R. 2362, introduced by Representative MacKay and co-sponsored by seventeen members of the Florida delegation, would eliminate a tariff loophole in the existing Tariff Schedules of the United States whereby imported frozen concentrated grapefruit juice may be entered for consumption and introduced into the commerce of the United States as a reconstituted single strength product, subject to a much lower rate of duty than that applicable to the concentrated juice. This circumvention of the intended tariff rate for concentrated grapefruit juice can result in price suppression at the wholesale level, as importers realize substantial gains on the differential between applicable tariff rates for single strength and concentrated juice. H.R. 2362 would produce the same salutary results as H.R. 3587, introduced during the 98th Congress and enacted at Section 117 of the Trade and Tariff Act of 1984, Pub. L. No. 98-573 (which related to tariff classification of orange juice), by providing that any imported grapefruit juice which is either concentrated, or made from the concentrate, shall be classified and dutiable at the rate intended to apply to the concentrated product, thus correcting the current tariff classification anomaly which Congress has already corrected with respect to imports of orange juice.

GRAPEFRUIT JUICE IS AN IMPORT SENSITIVE COMMODITY

The U.S. industry producing grapefruit juice has been subjected to several disruptions in recent years, due to nominal declines in consumption, trade related pressures, and natural occurrences. For a prolonged period of time (late 1981 through early 1984) grapefruit juice prices and residual returns to growers suffered a severe

decline, with sales declining from 96.6 million gallons in the 1979-1980 season to 81.5 million gallons in the 1983-84 season. Total retail movement of Florida frozen concentrated grapefruit juice has stagnated and declined since the 1978-79 season, even though bulk movement has registered a modest increase. The f.o.b. and on tree values of grapefruit have also had substantial declines from the 1979-80 to the late 1983-84 seasons. Most importantly, the season average "on-tree" prices to growers for grapefruit for processing declined from $2.93 per box (White Seedless) and $2.21 per box (Pink Seedless), in the 1979-80 season, to $.59 and −$.04, respectively, in the 1982-83 season. This represented a state average net loss to growers for processed Pink Seedless grapefruit, and a very weak return for White Seedless. Returns have moderated only slightly for the 1983-84 season ($1.66 and $.83, respectively), despite the strengthening of prices which would normally be expected following freeze damage (a major freeze-related loss occurred in December 1983). Returns have not even begun to approach the levels of the 1979-80 season.

In considering the depressed state of the grapefruit industry, it is important to note that Florida citrus is not the beneficiary of any Federal Government support programs. The industry, for years, has prided itself on remaining an important independent sector of American agriculture which has not sought to obtain price support or similar benefits from the United States Government.

The import sensitivity of grapefruit juice and the importance of maintaining the intended tariff has been confirmed recently by both Congress and the Administration, underlining the significance of this bill. The recently completed U.S.-Israel Free Trade Area, which FCM supported, specifically provided, at Annex i, Paragraph 4, and List C to Annex 1, that existing Column 1 rates of duty in the Tariff Schedules of the United States shall be applied to imports of concentrated and single strength grapefruit juice from Israel, until at least January 1, 1990, after which the applicable tariff rates will be the subject of further consultations between the United States and Israel. This extraordinary treatment, provided only to seven of the thousands of agricultural and manufactured articles traded between the United States and Israel, was deemed necessary because of the proven sensitivity of the U.S. grapefruit industry, as reported after an economic impact study by the U.S. International Trade Commission.

Similarly, the Caribbean Basin Initiative, for which FCM also provided qualified support, while including gradefruit juice on its list of products for which unilateral duty-free treatment was granted, provided specifically for a special fast-track relief mechanism for injury caused by imports of concentrated grapefruit and orange juices. Pub. L. No. 98-67, Section 213(f)(5). Furthermore, the Congress addressed the problem of possible manipulation of concentrated juice in a CBI beneficiary country, through reconstitution of the product from a concentrate to a single strength juice, in order to obtain the benefit of duty free-treatment. Section 213(a)(2)(B) of the CBI legislation provides that: "* * * no article or material of a beneficiary country shall be eligible for such treatment by virtue of having merely undergone—

"(A) simple combining or packaging operations, or

"(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article."

Pub. L. No. 98-67, Section 213(a)(2)(B) (emphasis provided). The Committee on Ways and Means reported that "[t]he object of these provisions is to prevent pass-through operations in which the work performed is of little economic benefit to the Caribbean and constitutes avoidance of U.S. duties. Examples of activities that the Customs Service should consider as insufficient include . . . merely diluting with water, such as reconstituting orange juice concentrate . . ." H. Rep. No. 98-266, 98th Congress, 1st Sess. 13 (1983). This directive of the Committee was incorporated by the Customs Service into its regulations implementing the CBI program. 19 C.F.R. § 10.195(a)(2)(i)(F), published at 49 Fed Reg. 47,994 (Dec. 7, 1984)

These special provisions in both the CBI legislation and the U.S.-Israel Free Trade Area both acknowledge the import sensitivity of grapefuit and other citrus juices, and recognize the incentive for and technical feasibility of simple manipulation of the product in order to gain a duty advantage. While the situation addressed in those programs concerns reconstitution or other manipulation of citrus juice abroad for purposes of changing the country-of-origin of the product, the incentive also exists for engaging in such manipulation, either in foreign trade zones or at border points adjacent to U.S. ports of entry and major U.S. markets, to take advantage of the tariff disparity between the concentrated and the single strength product. H.R. 2362 would address this problem and assure that such duty circumvention does not occur.

A similar classification loophole for Orange Juice was corrected in the Trade and Tariff Act of 1984.

Until January 1, 1985, grapefruit and orange juice were classified for tariff purposes under the same items of the Tariff Schedules of the United States. Consequently, imports of both grapefruit and orange juice were assessed a duty of 20¢ per gallon, if in single strength form, and 35¢ per gallon, if in concentrated form. The tariff nomenclature describing orange juice was changed, through enactment of Section 117 of the Trade and Tariff Act of 1984, which provided that imported orange juice which is either concentrated or made from a juice having a degree of concentration of 1.5 or more, after correction to the nearest .5 degree, shall be dutiable at a rate of 35¢ per single-strength equivalent gallon. The reason for the correction was made clear in the report of the Committee on Ways and Means.

This legislation was prompted by the increasing amount of imports of concentrated and reconstituted orange juice which are penetrating the domestic markets, some of which is being reconstituted for import. Under current law, the tariff applicable to imported orange juice varies as to whether the juice is defined as being concentrated or not concentrated. Concentrated juice is subject to a column 1, MFN, duty of 35 cents per gallons. To avoid the higher duty, concentrated orange juice is being brought into U.S. foreign trade zones and bonded warehouses for processing. Water is added and the resultant product is imported into the United States as a reconstituted orange juice subject to the lower tariff of 20 cents per gallon.

Similar operations are occurring along the Canadian and Mexican borders where concentrated orange juice is being reconstituted for import and lower applicable duty.

The operations defined above are designed to avoid the higher duty rate resulting in circumvention of the intended duties prescribed by Congress and to pose a serious threat to the domestic citrus industry. The legislation would establish two separate item numbers for imported orange juice. The lower duty of 20 cents per gallon would apply to imports of natural strength unconcentrated orange juice and orange juice made with a degree of concentration less than 1.5 or about 17.3. Brix. The higher duty of 35 cents per gallon would apply to concentrated juice and reconstituted juices made from juice with a Brix value of greater than 17.3.

H. Rep. No. 98-1015, 98th Cong., 2d sess. 9(1984). See also, Subcommittee on Trade, Report on Miscellaneous Tariff and Customs Bills, WMCP:98-34, 98th Cong., 2d Session 61(1984).

This tariff disparity still exists for grapefruit juice and the incentive is present for importers or foreign producers to engage in the activities noted by the Committee in connection with orange juice. The importation of grapefruit juice in a single strength form rather than concentrate affords the importer a 15¢ per gallon differential, or 45% savings in duty, through only a minimal processing operation designed to alter only the form of the juice, and only for the purpose of circumventing the higher duty for concentrated product. The 15¢ per gallon difference may be reflected directly in the U.S. price markets and would cause damaging suppression of prices just as the grapefruit growers of Florida and Texas are attempting to recover from the combined effects of freeze damage and sluggish consumption trends.

H.R. 1249, which is also under consideration by the Subcommittee, would achieve the same purpose as H.R. 2362, to the extent that it would prevent circumvention of the intended tariff for concentrate. However, H.R. 1249, if enacted, would decrease unilateraly the duty rate applicable to single strength grapefruit juice (from 20¢ to 15¢ per gallon). This would defeat entirely the effect of the bill in closing the tariff loophole, and would decrease permanently the long established duty rates for these import sensitive articles. Therefore, FCM supports only the intent of H.R. 1249, but opposes that bill to the extent that it would unilaterally decrease the applicable tariff rates for grapefruit juice.

For the foregoing reasons, FCM urges the Subcommittee on Trade and the full Committee on Ways and Means to report favorably on H.R. 2362, and not to report favorably on H.R. 1249, unless it is amended to provide for the application of the current rates of duty.

STATE OF FLORIDA,
DEPARTMENT OF CITRUS,
Lakeland, FL, June 27, 1985.

Re H.R. 2362 Amendment to supart A of part 12 of Schedule 2 of the Tariff Schedules of the United States.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN GIBBONS: The following comments are filed by the undersigned in support of H.R. 2362 establishing equal and equitable classification and duty rates for certain imported citrus products, as submitted by Congressman Mackay.

Written testimony was requested by the Subcommittee on Trade May 16, 1985 regarding various tariff and trade bills.

The passage of this bill is important to the Florida citrus industry in that it preserves the integrity of the original tariff structure on grapefruit juice and identity of frozen concentrated grapefruit juice for U.S. import tariff purposes and prevents the unfair manipulation of U.S. duty rates.

The proposed amendment to Subpart A of Part 12 of Schedule 2 of the Tariff Schedules of the United States (12 U.S.C. 1201) will prevent manufacturing of grapefruit juice before being imported into this country for the purpose of avoidance of duty on concentrated grapefruit juice. The amendment simply clarifies the original intent of the law which was to offer a lower duty rate on imports of single strength grapefruit juice, juice which was never concentrated.

Similar legislation adopted this past year successfully closed a loophole in the Tariff Schedules of the United States for imports of orange juice concentrate. The amendment in the case of orange and grapefruit juice simply specifies that once juice has been concentrated it is classified as concentrate for tariff purposes when imported into the U.S.

H.R. 2362 will give our U.S. citrus industry and the U.S. Treasury a useful tool in combatting what is currently a means of effectively reducing the proper U.S. tariff assessment regarding concentrated grapefruit juice and provide the grapefruit segment of the citrus industry the protection intended in the original tariff legislation.

We most respectfully urge your Subcommittee's consideration and support of H.R. 2362.

Sincerely,

W. BERNARD LESTER,
Executive Director, Florida Department of Citrus.

CLIFFORD C. BEASLEY, Jr.,
Executive Vice President, Florida Citrus Processors Association.

H.R. 2379

To amend the Federal Meat Inspection Act to prohibit the importation of live animals and meat products from countries having standards for the use of certain antibiotics in food-producing animals that are not as stringent as those of the United States, and for other purposes

See statement of California Farm Bureau Federation, Henry J. Voss, under H.R. 110.

See statements of Australian Meat and Live-stock Corp., Bryan Jay Yolles; and Meat Importers Council of America, Inc., William C. Morrison, under H.R. 1033.

H.R. 2381

Relating to user fees for customs services at certain small airports.

AIRCRAFT OWNERS & PILOTS ASSOCIATION,
Frederick, MD, June 25, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, Longworth Building, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to Trade Subcommittee Release #8 which invites interested parties to comment on various tariff and trade matters pending before the Subcommittee. Of interest to the Aircraft Owners and Pilots Association is H.R. 2381, a bill introduced by Mr. Carr dealing with customs services at the Pontiac-Oakland Country Michigan airport. We would appreciate inclusion of this letter as part of the Subcommittee's hearing record.

AOPA is opposed in principle to Section 236 of the 1984 Trade Act which provides for customs services at certain small airports on a cost-recovery basis. It is our belief that all modes of transportation should be treated equitably and in a non-discriminatory fashion and aviation is presently singled out for overtime charges from which other modes are exempt. Now, aircraft which land at certain small airports will be required to pay for services which are provided without charge at larger airports.

Nevertheless, it appears that Section 236 of the Trade Act provides the only mechanism by which the Pontiac, airport can expect to have a customs facility. It is a busy, vital airport and the surrounding communities would benefit greatly from a customs facility. Therefore, our objections to Section 236 notwithstanding, we urge your favorable consideration of H.R. 2381.

We are appreciative of the opportunity to work with the Subcommittee on matters involving the Customs Service.

Sincerely,

JOHN L. BAKER, *President.*

THOMAS J. BULGER,
GOVERNMENT RELATIONS, INC.,
Washington, DC, June 21, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means,
Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: Pursuant to the request by the Subcommittee on Trade, Committee on Ways and Means for public comment on miscellaneous tariff and trade bills, enclosed please find a supportive statement regarding H.R. 2381 (Rep. Carr).

Upon conclusion of the Committee's public comment period we hope that H.R. 2381 would be given serious consideration by the Committee.

Sincerely,

THOMAS J. BULGER.

JUSTIFICATION FOR H.R. 2381 AMENDMENT OF THE TRADE AND TARIFF ACT OF 1984, COMMITTEE ON WAYS AND MEANS

During the 98th Congress, the Trade and Tariff Act of 1984 was passed. This legislation, specifically Section 326, addressed the issue of providing customs service at certain small airports. While Section 326 is in itself a beneficial addition to the Act, it is necessary to now update and expand on an overlooked aspect: the unusually low ceiling (four) placed on the number of small airports allowed to be designated to receive customs services.

H.R. 2381, as introduced by Rep. Carr, attempts to correct this oversight. Basically, Mr. Carr's amendment to the Trade and Tariff Act of 1984 will strike the limit of four airports and allow the Secretary of the Treasury to designate an unlimited number of small airports for reimbursable customs services. H.R.*2381 also nominates Oakland/Pontiac Airport in Pontiac, MI to be among those considered to receive customs services.

A large number of private Michigan firms house aircraft at Oakland/Pontiac Airport. In fact, the Oakland/Pontiac Airport operated by Oakland County is the busiest airport in the State of Michigan. Many of the airport's private sector users engage in international business, particularly with Canada; customs services will therefore reduce business costs by eliminating an intermediate stop at already-designated custom service airports. Thus, we believe, economic growth will be stimulated.

Currently Detroit Metro Airport serves as the intermediate stop to most aircraft arriving at Oakland/Pontiac Airport. Air traffic capacity there is now ranked third in complexity in the nation. Reduced air traffic at Detroit Metro would be beneficial to the entire airport and airways system as a whole.

Furthermore, Oakland/Pontiac Airport is prepared to provide full reimbursement to the U.S. Customs Service as stipulated by the Trade and Tariff Act of 1984. In other words, there will be no cost to the Treasury nor to the government of the United States.

This statement is respectfully submitted on behalf of Oakland County, Michigan, the operator of Oakland/Pontiac Airport. The statement has been prepared by Thomas, J. Bulger, Government Relations, Inc., 1612 K St., N.W., Suite 706, Washington, D.C. 20006, (202) 775-0079. Oakland County, Michigan's designated representative is Thomas J. Bulger, Government Relations, Inc.

H.R. 2382

"The Beekeeper Preservation Act of 1985"

See statement of California Farm Bureau Federation, Henry J. Voss, under H.R. 110.

U.S. International Trade Commission

Section-by-section analysis

Section 1(a) of the bill expresses certain findings of Congress concerning the importance of the honey industry to the domestic economy, "dramatic" increases in imports of honey, and increases in forfeitures of domestic honey to the Commodity Credit Corporation (CCC) under the honey loan program proportionate to the increases in imports of honey. Section 1(b)(1) of the bill would direct the U.S. International Trade Commission, within 90 days of the bill's enactment, to conduct an investigation, in accordance with section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), with respect to the effects of honey imports on the honey loan program administered by the U.S. Department of Agriculture. Section 1(b)(2) provides that if, on the basis of its investigation, the Commission recommends that fees or limitations be imposed on imports of honey, the President, no later than 60 days after issuance of the Commission's report, shall by proclamation impose such fees or limitations or deny the existence of the facts justifying such fees or limitations.

Background and purpose

Description and uses.—Honey is a sweet, viscous material produced by bees from the nectar of flowers. It varies in color, flavor, and chemical composition depending primarily upon the floral source. For example, honey produced from clover, cotton, or sage is light colored and mild flavored, and that produced from buckwheat, dandelions, and most wild flowers is amber or dark colored and strong flavored.

Nearly all commercial honey is extracted from the comb, although small quantities are consumed in the form of comb honey or chunk honey. There are also specialty products known as granulated r creamed honey, which are made by encouraging the development of fine crystallized dextrose in honey. Recently, there has been some marketing of products consisting of honey blended with corn syrup.

Honey is graded according to color and floral source, the lighter colors usually being the most valuable. Table use accounts for most of the honey consumed in the United States. Light, mild honey is preferred for table use, but there is significant table consumption of dark, strong-flavored honey, such as buckwheat honey. Most honey for industrial use in baked goods and other prepared foods is dark honey. Exotic honeys for table use, obtained from unusual domestic and foreign floral sources (e.g., sour gum, thyme, and rosemary), command premium prices.

Most U.S. honey has been heat treated to retard granulation, prevent yeast fermentation, and facilitate filtering. Most foreign honey has not been heat treated because many foreign markets prefer unheated honey. The heat treatment affects the natural yeast and enzyme content of honey and, therefore, affects the flavor. However, honey that is not heat treated is more subject to fermentation or spoilage.

Purpose.—No statement of purpose of the bill was published in the Congressional Record.

Comparison of H.R. 2382 with provisions of section 22

Section 22(a) of the Agricultural Adjustment Act provides for Commission investigation upon notification from the President (1) that the Secretary of Agriculture has advised him that he (the Secretary) "has reason to believe" that any article or articles are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, a USDA program, or to reduce the amount of any product processed in the United States from any agricultural commodity covered by such a program, and (2) that he (the President) agrees that there is reason for such belief. Upon such notification, which is mandatory in the event of such findings by the Sec-

retary and President, the Commission is required to conduct an investigation in order to determine whether such facts exist. The statute requires that the Commission give "precedence" to such investigations, but it does not provide a time limit.

Section 22(b) provides that if the President, following receipt of the Commission's report and findings and recommendations, finds such facts to exist, he is by proclamation to impose fees or quantitative restrictions. However, such fees may not exceed 50 percent ad valorem, and such quantitative restrictions must allow the entry or withdrawal from warehouse for consumption of a quantity equal to at least 50 percent of imports entered or withdrawn from warehouse for consumption during a period which the President considers representative of imports. The statute does not require the President to act within a given time period after receiving the Commission's report. Section 22(b) also provides that the President may take emergency action regarding such imports without awaiting the recommendations of the Commission.

Section 22(d) permits the President to suspend or terminate any such action after an investigation, report, finding, and declaration of the kind provided for in section 22(a).

Under H.R. 2382, a section 22 investigation would be triggered by enactment of the bill and would have to be completed within 90 days thereafter. The bill would not alter the President's obligation under section 22 to issue by proclamation his own findings with respect to the Commission's findings of fact as to fees or import limitations. However, the President would be required to act within 60 days of issuance of a Commission affirmative recommendation.

Prior investigation under section 201 of the Trade Act of 1974

Based on a petition filed under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) by domestic honey producers, the Commission investigated and determined in June 1976 that honey, provided for in TSUS Item 155.70, was being imported into the United States in such increased quantities as to be a substantial cause of the threat of serious injury to the domestic industry.[1] To prevent serious injury, the Commission found that it was necessary for the President to impose a tariff-rate quota system. The Commission recommended that higher tariffs be imposed on imports of honey exceeding 30 million pounds per year (i.e., over-quota honey) during calendar years 1976–80.

The President in August 1976 determined that import relief for the honey industry was not in the national economic interest. However, he ordered the Secretary of Agriculture to "initiate additional research on the importance of pollination to U.S. agriculture and consumers." Adjustment assistance was to be made available to honey workers and firms who were injured by imports, provided they were able to meet the criteria for such asssitance established under the Trade Act of 1974.

Tariff treatment under the TSUS

Imported honey is classified for tariff purposes under Tariff Schedules of the United States (TSUS) items 155.70.[2] The column rate of duty currently applicable to such imported honey is 1 cent per pound, and the column 2 rate is 3 cents per pound.[3] The column 1 rate reflects a concession granted by the United States in the

---

[1] *Honey: Report to the President on Investigation No. TA-201-14 . . .*,USITC Publication 781, June 1976.

[2] TSUS item 155.70 applies only to pure honey. Honey mixed with flavorings, milk products, and so forth is calssified as an edible preparation in TSUS item 183.05 and is dutiable at 10 perent ad valorem.

Artificial honey and honey blended with corn syrup as sugar syrups are classified in TSUS item 155.75 as sirups, flavored or unflavored, consisting of blends of any of the products described in subpart 10A of schedule 1 of the TSUS. Such products are subject to a duty of 8.3 percent ad valorem for imports entered from column 1 countries, 6 percent ad valorem for imports from Lesser Developed Developing Countries (LDDC's), and 20 percent ad valorem for imports from column 2 countries. This item is subject to an annual staged rate reduction as result of the Tokyo round of the Multilateral Trade Negotiations. The final reduced rate will be 6 percent ad valorem, effective Jan. 1, 1987.

[3] Col. 1 rates of duty are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, these rates would not apply to products of developing countries where such articles are eligible for preferential tariff treatment under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the LDDC rate of duty column. Col 2 rates of duty apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

Geneva Protocol to the General Agreement on Tariffs and Trade (1947), effective January 1, 1948. No concession was granted on this item in the Tokyo round of Multilateral Trade Negotiations. The ad valorem equivalent of the column 1 rate of duty in 1984 was 2.7 percent. Honey imported under item 155.70 is not currently eligible for duty-free treatment under the Generalized System of Preferences (GSP); [4] however, honey imports under item 155.70 are eligible for duty-free entry from countries designated under the Caribbean Basin Economic Recovery Act (CBERA).[5]

Tariff treatment under the proposed Harmonized System (HS)

Under the proposed Harmonized System (HS), honey would be classified under HS subheading 04.09.00.00 "natural honey." This subheading has a column 1 rate of duty of 2.2 cents per kilogram and a proposed column 2 rate of duty of 6.6 cents per kilogram, as currently proposed by the Trade Policy Staff Committee.

Structure of domestic industry

Producers.—In 1982, there were 10,900 U.S. farms reporting commercial production of honey, or 30 percent fewer than the 15,500 in 1978. In recent years, most honey has been produced by an estimated 1,500 professional beekeepers (with 300 or more colonies each). These beekeepers account for an estimated 60 percent of U.S. honey production and for about half the total number of colonies, and can be divided into two groups, migratory and nonmigratory producers. Some migratory beekeepers relocate their bees as many as 30 times a year (by several miles or several thousand miles) in order to provide pollination service and/or to maximize honey production by providing their bees with sources of nectar during more months of the year. They frequently collect fees for the pollination services of their bees, although for most beekeepers the value of honey and beeswax produced far exceeds fees received for pollination services.[6] Migratory beekeepers who move their colonies twice a year generally relocate colonies in the fall of the year from the northern United States to the Southeast or Southwest.

The nonmigratory honey producers, as a group, generally do not move their colonies over any significant distances, if at all. The colonies are normally overwintered where they were located during the summer.

Commercial honey production takes place throughout the United States. In 1982, California (accounting for 16 percent of commercial production), South Dakota (10 percent), North Dakota (9 percent), and Florida (8 percent) were the major producing States. Other principal producing States include Minnesota, Montana, and Texas.

The remaining honey extracted each year in the United States is produced by about 200,000 beekeeping hobbyists (with fewer than 25 colonies each) and about 10,000 sideliner beekeepers (25 to 299 colonies). Sideliners and hobbyists together account for about half the colonies, and produce about 40 percent of U.S. honey production. Hobbyist beekeepers, particularly those with only a few colonies, usually do not deal in commercial honey markets, since some or all of their production is for home use. Sideliner beekeepers usually sell the majority of their honey, but do not depend on honey as their sole source of income.

U.S. honey producers use several marketing methods in disposing of their crop. They may sell their entire crop in bulk containers to packers or dealers or they may pack a portion of the crop in small containers and sell it directly to retail stores, to the consumer, or to both.

Processors.—There are many firms which process honey in the United States, although the dozen largest firms account for over three-fourths of the honey moving into U.S. wholesale and industrial outlets. The remainder of the honey processed in the United States and sold through wholesale and industrial outlets is believed to be

---

[4] The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment to specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976; P.L. 98-573 extended the GSP until July 4, 1993.

[5] The CBERA, enacted in August 1983, provides for duty-free treatment for specified eligible articles imported directly from designated Caribbean countries and territories. The effective date of the CBERA was Aug. 5, 1983, and the authority for such duty free treatment expires Sept. 30, 1995 (19 U.S.C. 2706).

[6] Some beekeepers obtain a significant portion of their income from pollination services. Certain large commercial beekeepers in the Pacific Coast States have derived as much as a third of their income from pollination services. The amount of pollination fees paid is usually inversely proportional to the value of honey produced, since little honey is produced from some crops requiring pollination service.

handled by fewer than 50 firms. In addition, there are an unknown number of firms processing honey, mostly their own production, which never enters the wholesale or industrial market, but is sold by roadside stands or through direct sales to retail outlets. Rarely does a processor handle anything except honey. The processing can easily be spread out over the year because honey can be stored for periods in excess of a year, thus allowing for year-round utilization of the processing plant.

Importers.—Most U.S. importers of honey, particularly the large ones, are honey processors or firms that import for them. It is estimated that a dozen domestic concerns import fairly large quantities of honey; an unknown number of smaller concerns also import honey.

Suppliers.—Processed honey is generally marketed by three types of suppliers: producer-packers, cooperative marketing organizations, and bottlers.

Producer-packers are those honey producers who bottle and sell part or all of their honey crop. An estimated 40 percent of the honey produced in the United States is marketed this way.

Cooperative marketing organizations receive, process, pack, and distribute the member producers' crop under the cooperative label, or they may pool and market the members' production in bulk containers. It is believed that some of these cooperatives buy honey from nonmembers and importers if supplies from members are not adequate.

The bottlers are generally large, well-organized firms. They have automatic labeling, filling, and capping equipment. Their honey is distributed and sold under their advertised brands, usually in a limited area. These processors may also provide private-label packing for retail chains, and buy domestic as well as imported honey.

Industrial users.—Industrial users generally use honey that does not measure up to table quality in color or flavor, although some demand table qualities and grades. Most of this honey is believed to be purchased in bulk from processors, although some is purchased directly from producers and importers. The principal industrial users are the baking industry, the restaurant trade, the pharmaceutical industry, the confectionery industry, and the tobacco industry.

Domestic production

During 1980–84, U.S. production of honey ranged from a high of 230 million pounds in 1982 to a low of 165 million pounds in 1984, and averaged 197 million pounds for the period (table 1). The trend in U.S. honey production has been downward for the last 3 decades. Honey production has been influenced by such factors as weather conditions, pesticide losses, availability of nectar sources, and changes in cropping practices. The average price received by honey producers increased from 51 cents per pound in 1980 to 57 cents per pound in 1982, and declined to 51 cents per pound in 1984.

U.S. stocks and USDA support program

U.S. stocks of honey on January 1 rose steadily from 38 million pounds (equivalent to 19 percent of production) in 1980 to 165 million pounds (100 percent of production) in 1984 (table 1). On January 1, 1985, U.S. stocks amounted to 185 million pounds. Included in these stocks are those stored under the USDA support program on which loans are made to beekeepers who store honey as collateral, and stocks owned outright by USDA after acquisition under the program. The USDA had loans outstanding on 90 million pounds of honey on January 1, 1985, as shown in the following tabulation (in million pounds):

Year	Quantity stored under USDA price support program (on Jan. 1)	Stocks owned by USDA
1980	22.9	0
1981	32.1	0
1982	43.7	5.6
1983	78.1	38.7
1984	93.4	51.8
1985	90.3	73.9

The USDA acquired ownership of 5.6 million pounds of honey during 1981 from beekeepers who failed to repay loans due on their 1980 crop. Thereafter, USDA-owned honey stocks rose steadily to 74 million pounds on January 1, 1985.

The USDA loan rate for honey rose from 50.3 cents per pound in 1980 to 65.8 cents per pound in 1984, and then declined slightly to 65.3 cents per pound in 1985, as shown in the following tabulation (in cents per pound):

USDA loan rate

Year:	
1980	50.3
1981	57.4
1982	60.4
1983	62.2
1984	65.8
1985	65.3

U.S. imports

U.S. imports honey increased steadily from 49 million to 129 million pounds during 1980-84 or by 163 percent (table 2). Canada, Mexico, Argentia, and China have been the principal sources of imports in recent years; during 1980-84 they supplied 88 percent of the total value of honey imported into the United States. Imports dutiable at the column 2 rate of duty have been negligible in recent years.

U.S. exports

U.S. exports of honey increase from 8.5 million pounds in 1980 to 9.2 million pounds in 1981, and then declined to 7.5 million pounds in 1984 (table 3). Saudi Arabia, the Netherlands, Japan, and Canada were the principal markets in 1984.

Apparent U.S. consumption

Apparent U.S. consumption of honey rose from 226 million pounds in 1980 to 279 million pounds in 1983, and then declined to 267 million in 1984 (table 1). The share of consumption supplied by imports rose from 21 percent in 1980 to 48 percent in 1984. Per capita consumption of honey in the United States averaged about 1.0 pounds annually in recent years.

Potential annual change in revenue

If section 22 restrictions were applied to imports, changes in revenue would depend on the type of restriction adopted. Absolute quotas could result in losses of revenue while the application of fees could yield gains. Under section 22, quotas cannot reduce imports to an amount which is less than 50 percent of the quantity entered during a representative period, and fees cannot exceed 50 percent ad valorem. Based on imports in 1984, the adoption of the maximum quota limitation would have reduced revenue by about $640,000 while a 50-percent fee would have increased revenues by $24 million.

Technical comments

As noted earlier, the bill is incorrectly titled in two places. The bill should be titled "the Beekeeper Preservation Act of 1985" in the two references cited in the bill on page 1. The numbering sequence for the sections of the bill is also incorrect as the bill identifies a section "1", but does not have a section "2".

On line 11, page 2, it is suggested that the phrase "the U.S. Department of Agriculture (Commodity Credit Corporation)" be substituted for "CCC".

Section 1(b)(2) should be clarified so as not to require the President to issue a proclamation if he decides to deny the existence of facts justifying such fees or limitations. Proclamations generally are issued to announce the taking of an action, rather than to announce a decision not to take an action. However, if it is deemed appropriate to require the President to explain his decision not to take action, Congress may wish to require him to advise it of his reasons.

GATT considerations

The United States obtained a GATT waiver in 1955 for actions taken under section 22. However, the enactment of legislation that provides for the taking of section 22 actions in a manner different from that existing at the time the waiver was granted could be challended by our trading partners as inconsistent with the waiver.

TABLE 1.—HONEY: U.S. PRODUCTION, EXPORTS OF DOMESTIC MERCHANDISE, IMPORTS FOR CONSUMPTION, STOCKS, AND APPARENT CONSUMPTION, 1980–84

[Quantity in millions of pounds; value in millions of dollars; unit value per pound]

Year	Production	Exports	Imports	Beginning stocks	Apparent consumption	Ratio (percent) of imports to consumption
			Quantity			
1980	199.8	8.5	49.0	38.0	226.2	22
1981	185.9	9.2	77.3	52.1	232.0	33
1982	230.0	8.5	92.0	74.1	250.8	37
1983	205.0	7.5	109.8	136.8	278.9	39
1984	165.0	7.5	128.7	165.2	266.9	48
			Value			
1980	101.9	6.6	21.1	(1)	.....	.....
1981	106.0	7.2	32.2	(1)	.....	.....
1982	131.1	6.4	37.2	(1)	.....	.....
1983	110.7	5.9	43.4	(1)	.....	.....
1984	84.2	5.4	47.9	(1)	.....	.....
			Unit value			
1980	$0.51	$0.77	$0.43	(1)	.....	.....
1981	.57	.78	.42	(1)	.....	.....
1982	.57	.75	.40	(1)	.....	.....
1983	.54	.79	.40	(1)	.....	.....
1984	.51	.72	.37	(1)	.....	.....

[1] Not available.

Note: Unite values are calculated from unrounded data.

Source: Production and stocks compiled from official statistics of the U.S. Department of Agriculture; imports and exports compiled from official statistics of the U.S. Department of Commerce.

A.H. MEYER & SONS, INC.,
Madison, SD, June 24, 1985.

MEMBERS OF THE COMMITTEE: Thank you for this opportunity to have a hearing concerning the import problems of the honey industry.

By way of introduction our company has been involved in beekeeping for five generations. The honey producing operation is in North Dakota and South Dakota. Our overwintering operation is in Louisiana and Mississippi.

We are what is known as "independent" beekeepers, meaning that we sell our honey on the open market and not through a co-operative organization. Until the last few years we have operated in this manner, but approximately five years ago it became increasingly difficult to sell our honey on the open market. Now it is impossible!! All of our production is turned over to the Government.

It appears that there is an oversupply of honey in the world market. As the United States has no restrictions (1¢/lb.) on imported honey, this oversupply is pouring into our country, and it is replacing domestically produced honey on the store shelves. (50–60% in 1984 and more in 1985!)

The honey loan program under which we have operated since the early 1950's has been a good program. It has provided stability in the market over these many years. Very little honey has been taken over by the government until the past five years. We have included a chart which shows the amount of honey take over. This chart also shows U.S. honey production over the years. These figures clearly show that imports, not overproduction, is our industry's problem.

To us the answer is simple. Do not allow imports to come in below the price support level! Our industry, as figures show, needs about 35 to 40 million pounds of imported honey, but not 129 million pounds!

Many of us have tried to get the administration to recognize our problem. We received a favorable F.I.C. ruling in 1976. Two years ago a group of industry people met with Sec. John Block. This meeting was sponsored by Sen. Larry Pressler from

South Dakota. We pointed out that over-production was not the problem, but that unrestrained imports were the problem. He was surprised, but he felt that "If you can't learn to compete with the Red Chinese you had better look for new jobs!"

With the attitude that Sec. Block has, it has been impossible to deal with the administration. Therefore we hope that you will pass the "Beekeepers Preservation Act." This will force the administration to look at the honey industry's problem. If the administration does not act on it's findings at least it will have to acknowledge the problem of imports.

At some point in time the issue of trade imbalances is going to have to be dealt with. Too many of our nation's businesses (all agriculture included) are facing extinction if current prices persist.

We cannot compete with the Chinese or third world countries where labor is $2 to $5 per day. Honey in China sells for 5¢ per lb. and a top man makes $60.00 a month. These are 1930 conditions. We cannot return to those times.

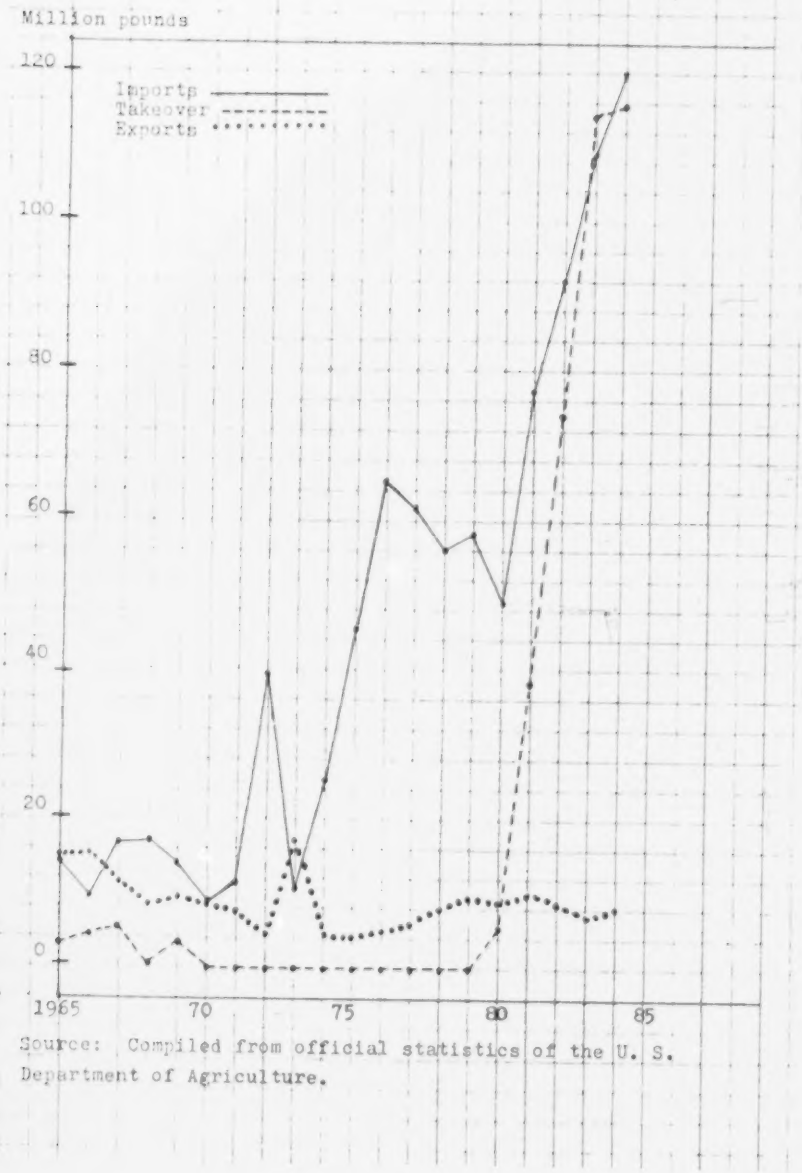
We need to maintain our current support program with a duty and quota system or Beekeeping with it's honey production and pollination benefits ($19 Billion) will be lost to the American Consumer.

Thank you.

Sincerely,

IREL H. MEYER.
JACK W. MEYER, Sr.
JACK W. MEYER, Jr.
JULIO P. DIAZ.

Figure - Honey: Imports, Exports and CCC takeover, 1965 - 84.



Source: Compiled from official statistics of the U. S. Department of Agriculture.

ABNAKI FARMS,
Skowhegan, ME, June 6, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: This letter is in regard to H.R. 2382, Beekeeper Preservation Act of 1985 and SR 1025 calling for a mandatory Section 22 investigation by the International Trade Commission.

As sideliner beekeepers (in Maine that is anyone with 20-99 beehives), we are writing to encourage hearings on the imported honey that is beginning to threaten our livelihoods.

We understand, Mr. Dowley, that everyone is looking for the best price in order to mark it up and earn a profit. If honey were any ordinary commodity (potatoes, maple syrup, even shoes or clothespins—Maine commodities that are already competing with foreign markets), we would all have to lie down and die, admitting defeat as others have done. But, Mr. Dowley, bees do more than make honey.

Almost $20 billion worth of commodities in the United States required or directly benefited from bee pollination in 1980. That amount has surely increased. How can we evaluate the value of honeybees in the pollination of wild plants for animal feed, soil erosion control, green manure, etc.? There is a growing segment of midwest farmers that believes tha pollination of many crops by honeybees increases their yield by as much as 30%.

The point, Mr. Dowley, is that many of us cannot afford to "keep" bees and truck them around to effectively pollinate if we can't make some money selling honey. Now that the price-support program is being phased out, we small-time beekeepers will not only be competing with imported honey but with the commercial beekeepers who until now sold their honey to the government. Now it will be on the shelves next to ours with a lower price, and theirs will be next to the jar of imported honey with a still lower price. Which would you buy?

We don't need imported honey. There is plenty of honey in America to supply America's needs. Honey is not like sugar—there isn't a honey pot in every household as there is a sugar bowl. We beekeepers spend too much time, effort, and money as it is educating the public to buy honey and do their bodies a favor. Unfortunately, most beekeepers are just that—beekeepers. They are not businessmen, marketers, or corporate executives with lots of ideas on packaging, advertising, and how to penetrate new markets.

We need your help! Please.

Sincerely,

MAGGIE WARREN.
BOB EGAN.

ADEE HONEY FARMS,
Haddam, KS, June 25, 1985.

JOSEPH K. DOWLEY,
House Ways and Means Committee,
Longworth House Office Building,
Washington, DC.

DEAR MR. DOWLEY: I am Kansas director of the American Honey Producers Assn.

It is plain that since the honey imports into this country equal the national consumption, the American honey producers are in trouble. At 60% of parity, the present price support price, the beekeeper is having difficulty making ends meet. The number of beekeepers and bees in the United States has declined steadily since 1976.

We desperately need protection from honey imports. This situation was developing in 1976 and nothing has been done about it. In 1981 thru 1984 honey imports flooded our markets at low prices. There is no way we can compete with foreign labor prices and survive as beekeepers. As beekeepers disappear so do the bees, so do the crops that need bees as pollinators.

Respectfully submitted.

VERNON H. ADEE.

Statement of Frank A. Robinson, Secretary-Treasurer, the American Beekeeping Federation, Inc.

SUMMARY

I am Frank A. Robinson, 13637 N.W. 39th Avenue, Gainesville, FL., 32606 [(904) 332-0012] and have been involved with commercial and hobby beekeeping for more than 40 years. I am also Secretary-Treasurer of the American Beekeeping Federation, a national beekeeping organization with members from all 50 states.

My familiarity with this industry leads me to conclude that unless something is done to restore some normalcy to the U.S. honey markets, commercial beekeeping will cease to exist in this country.

Almost 10 years ago the International Trade Commission determined that importing 46 million pounds of honey annually was a severe threat of harm to the domestic industry. Today, with imports exceeding 110 million pounds annually, can the domestic industry survive?

A new study and up-date of the situation by the International Trade Commission is urgently needed before any corrective actions can be considered or taken. Therefore, I am submitting a statement in support of Rep. Chappie's bill, H.R. 2382, asking for such an investigation and asking that this Subcommittee report this bill out for action by the Ways and Means Committee with minimum delay.

STATEMENT

As Secretary-Treasurer of the American Beekeeping Federation, I am writing on behalf of our more than 1,700 members asking that the U.S. House of Representatives Ways and Means Subcommittee for Trade schedule hearings as soon as possible on the Beekeepers Preservation Act of 1985, H.R. 2382, filed by Rep. Chappie (CA), or report this bill out for action by the Ways and Means Committee with minimum delay. In more than 40 years of association with commercial and hobby beekeeping in the United States I have never seen a time when the domestic honey market conditions were so chaotic or when industry faced so many problems which they had no part in creating, and over which they have so little control.

In 1976 when the amount of honey being imported into the United States was 46.4 million pounds, the International Trade Commission determined that: "Honey, provided for in item 155.70 of the Tariff Schedules of the United States is being imported into the United States in such increased quantities as to be a substantial cause of the threat of serious injury to the domestic industry." (see page 3, I.T.C. Report No. 781, 1976)

Today, imports are pouring in at a rate exceeding 110 million pounds annually. What was a "threat of serious injury" has become a reality! Ever increasing quantities of import honey pouring in at whatever price necessary to move it has made a shamble of the domestic honey market. Bankruptcies and loan defaults by commercial beekeepers have reached record high numbers, yet are still increasing. Unless some corrective steps are taken soon commercial beekeeping will likely join the ranks of extinct U.S. industries.

Before any corrective measures can be taken or even before a decision can be made as to what actions should be taken, it is necessary to determine exactly what the present situation really is. An investigation by the International Trade Commission, as called for in Rep. Chappie's bill, H.R. 2382, will provide this information and we urge the Ways and Means Subcommittee for Trade to schedule and conduct hearings on this bill as soon as possible, or to forward the bill to the full committee for immediate consideration.

Statement of Richard Adee, Vice President and Legislative Chairman, American Honey Producers Association, Inc.

I am Richard Adee of Bruce, South Dakota. I am Vice-President and Legislative Chairman of the American Honey Producers Association, a nation-wide organization of honey producers with voting members in forty states. I have served as President of the South Dakota Beekeepers Association and currently serve on the Advisory Board of that organization as chairman of the Taxation and Legislative Committee. I also serve on the Executive Board of the Mid U.S. Honey Producers Marketing Association. I own and operate Adee Honey Farms, which is a commercial beekeeping enterprise with over thirty two thousand colonies of bees under production in the states of South Dakota, Nebraska, Kansas and Mississippi.

On Monday, February 4, 1985 the President sent to Congress his budget proposals for FY-86. In his recommendations on major spending reforms and reductions in the 86 budget, we were dismayed to find that he proposes the elimination of the honey price support program. We appreciate the President's desire to balance the federal budget, but to eliminate the price support program on honey would be a disaster for our industry.

The honey price support level is set by statute under the Agricultural Act of 1949. Honey is to be supported at not less than sixty percent and not more than ninety percent of parity. Seldom during the life of the program has it ever been supported at more than sixty percent of parity.

Over the years the support price of honey has increased under the parity formula. The administration has taken the position that the present price support level is causing an over production of honey with a consequent increase in cost to the government. However, contrary to what normally might be expected with a commodity, honey production has not increased but is actually declining. The 1984 crop of 165 million pounds was the lowest since U.S.D.A. began keeing honey production records. (Fig. 1)

We do agree with the administrations charges that the price support program is costing more money each year. Within a time frame of only four years, the cost of the program went from practically nothing in 1979 to over eighty eight million dollars in 1983. It is alarming when one considers that for the thirty years preceding 1979 the program cost to the government were relatively insignificant.

What has happened within the honey industry to cause an increase in the cost of the program? There is a direct relationship between honey imports and the amount of honey being taken over by Commodity Credit Corporation. (Fig. 2) There is the same relationship between imports and the cost of the price support program. (Fig. 3) Within the last ten years, our markets have been completely taken over by imported honey.

In 1975 the honey industry was alarmed by the rapid increase in honey imports. We saw almost a one hundred percent increase in imports from 1974 to 1975. On December the 29th of 1975 the industry petitioned the International Trade Commission to investigate the honey imports to determine if they were in fact constituting serious injury or a threat of serious injury to the domestic honey industry.

The I.T.C., acting upon the petition, determined that honey was being imported into the United States in such increased quantities as to constitute a threat of serious injury to the domestic industry, thereby entitling it to import relief. They recommended to the President import relief in the form of a tarriff rate-quota system. Unfortunately for the beekeepers of the United States, the President at that time "determine that import relief for honey is not in the national economic interest of the United States" and declined to act on the recommendation of the International Trade Commission.

Will E. Leonard, chairman of the International Trade Commission, in his report to the President, made the following observation, "The evidence in this investigation with respect to current import trends leads to the conclusion that honey imports into the United States will continue to increase. Foreign producers are increasing their productive capacities with the addition of new colonies, and some good leading suppliers of the United States imports have government programs to encourage the production of honey for exportation."

Chairman Leonard's predictions, based on the evidence collected during the hearing, turned out to be extremely accurate. The very next year, 1976, imports amounted to over 65 million pounds. This was a fourty percent increase in imports over 1975. During 1984 we imported 128.7 million pounds of honey-5 times more than was imported in 1975-the period the I.T.C. found damage to the domestic industry.

In July of 1983 officials from the honey industry met with Secretary of Agriculture John Block. We requested a Section 22 I.T.C. investigation on honey imports. The Secretary turned us down. The entire Senate passed a sense of the Senate resolution asking the Secretary to initiate a Section 22 investigation on imported honey. He chose to ignore their resolution also.

The survival of the bee industry in the United States is not only important to we beekeepers, it concerns every person in the U.S. It is unique in this respect. Few people are aware of the importance of the honey bee in the production of food. It is something they take for granted. Like the sunshine and rain.

A recent study by Dr. M.D. Levin, U.S.D.A. Agricutural Research service, estimated the value of the U.S. crops that require or benefit from bee pollination to be between 17.6 and 19.9 billion dollars annually.

In U.S.D.A. Agricultural Economic Report-519, we find the following:

"Bees are pollinators of more than one hundred agricultural crops in the United States. Many vegetables do not need bees or pollination to produce a crop, but they are grown from bee pollinated seed. Bee pollination is required to produce seeds of forage legumes such as clover and alfalfa, which in turn are important to the production of meat and milk products. All seed crops such as cotton, sunflowers, soybeans, safflowers, and rape benefit from bee pollination."

"The economic benefits of pollination are not due solely to honey bees. Pollinating agents include wind and a wide variety of other insects including wasps, butterflies, moths, beetles, and flies. Despite the wide range of insects capable of pollinating crops, it is estimated that eighty percent of crop pollination is achieved by bees. A few species of wild bees have been more or less domesticated for man's use, but the honey bee is still the only pollinating insect that can be easily managed in sufficient numbers, moved at will, increased easily, provided year around, and that is able to pollinate a wide variety of crops."

"Because of the number of crops that depend on or are benefited by bee pollination, consumer effects from reduced pollination services are potentially much higher than those from reduced honey production. An estimated 3.47 billion dollars of fruits, nuts, and vegetables were produced in 1980 that require or benefit from bee pollination."

"Apiculturists and agronomists have not ventured estimates of the yield reductions that could result from inadequate pollination. However, the following example shows the potential magnitude of a one percent decrease in the production of fruit, nut, and vegetable crops that benefit from bee pollination."

"Because price rises more than production declines (in percentage terms), consumers total expenditure for the commodity increases when the supply is reduced. The welfare of consumers is affected in two ways. First, consumers welfare is reduced because they consume less of the commodity. Second, consumers pay more for the commodity, and thus (assuming income is constant) must consume less of all other goods and services; this is equivalent to a reduction in income."

"A one percent decline in production of the 3.47 billion dollars of vegetables, fruits, and nuts produced in 1980 that rely on bee pollination would reduce consumers welfare by 87 million dollars."

In 1980, the potential consumer effect from the one percent decline in the production of the preceding crops directly attributed to bee pollination was equal to the entire cost of the honey price support program in 1984.

We know, in the absence of honey bees on those crops which definitely depend on bees for pollination, we would see a much greater reduction than one percent. It could be as high as twenty five percent or more. Not only would the quantity be reduced but also the quality would be reduced. If we factored all of the crops benefiting from honey bee pollination according to the value of those benefits to the consumer we would come up with benefits running into the billions. Especially when one considers that one third of the total human diet is derived directly or indirectly from insect pollinated plants.

The administration, through Secretary Block, proposed that any short fall in income created by the termination of the honey price support program be made up by an increase in pollination fees.

In the summary of U.S.D.A. Agricultural Information Bulletin 465 (Honey Backgrounder) we find the following conclusion:

"The impact of any significant reduction in pollinating numbers for changes in the honey price support program for pollination of these crops would depend on whether the beekeeper that provided honey bees for pollination can obtain a higher fee for their services. Since pollination costs are a very small part of the total cost of producing crops requiring pollination services, it is likely that rental fees could be increased to reduce or offset the economic affects of lower domestic honey prices for those beekeepers actively engaged in providing pollination services for a fee."

Dr. Robert McDowell in U.S.D.A. Agricultural Economic Report 519 contradicts the Honey Backgrounder-Bulletin-465 with the following:

"With more beekeepers willing to provide pollination services, prices would probably decline for these products and services. Thus beekeepers will probably not be able to increase the prices they charge for these goods and services; in reality, prices will probably decline because of increase supplies. As a result of the decline in honey production, the market price for pollination services and their alternative products may actually decline, further reducing revenues and increasing financial losses."

"Like producers of many agricultural products, most honey producers are price takers not price setters. Domestic honey prices are unlikely to increase to the levels

necessary to maintain profitability or to simply break even as long as imported honey is available to maintain current supplies."

Our industry is capital intensive and labor intensive and most of our competition comes from third world countries. We can not compete with these countries and still maintain a viable bee industry to supply the pollination needs of the United States.

The 1984 honey crop was the shortest since the U.S.D.A. began keeping records. Unfortunately the Commodity Credit Corporation will be taking over close to seventy percent of the 1984 crop. They will spend close to eighty eight million dollars in the disposition of this honey.

The main criteria for establishing the price support program in 1949 was to assure a healthy bee industry that could supply the pollination needed by our national economy. If we are to fulfill this mission we must have protection from imports. If we were to allow no honey into this country below the sixty percent of parity support level of our price support program, we could get the government out of the honey business. We could go back to pre 1980 days where we had a price support program which gave us market stability with no cost to the government.

In closing, may I urge each of you to support Congressman Gene Chappie's bill H.R. 2382—"The Beekeeper Preservation Act". Our industry can not survive with out a check on the unbridled imports of honey. No other industry so vital to the economic and physical well being of our country has been allowed to be so dominated by imports. If we do not have a healthy, viable bee industry in the United States, the American consumer will pay the consequences.

FIGURE 1

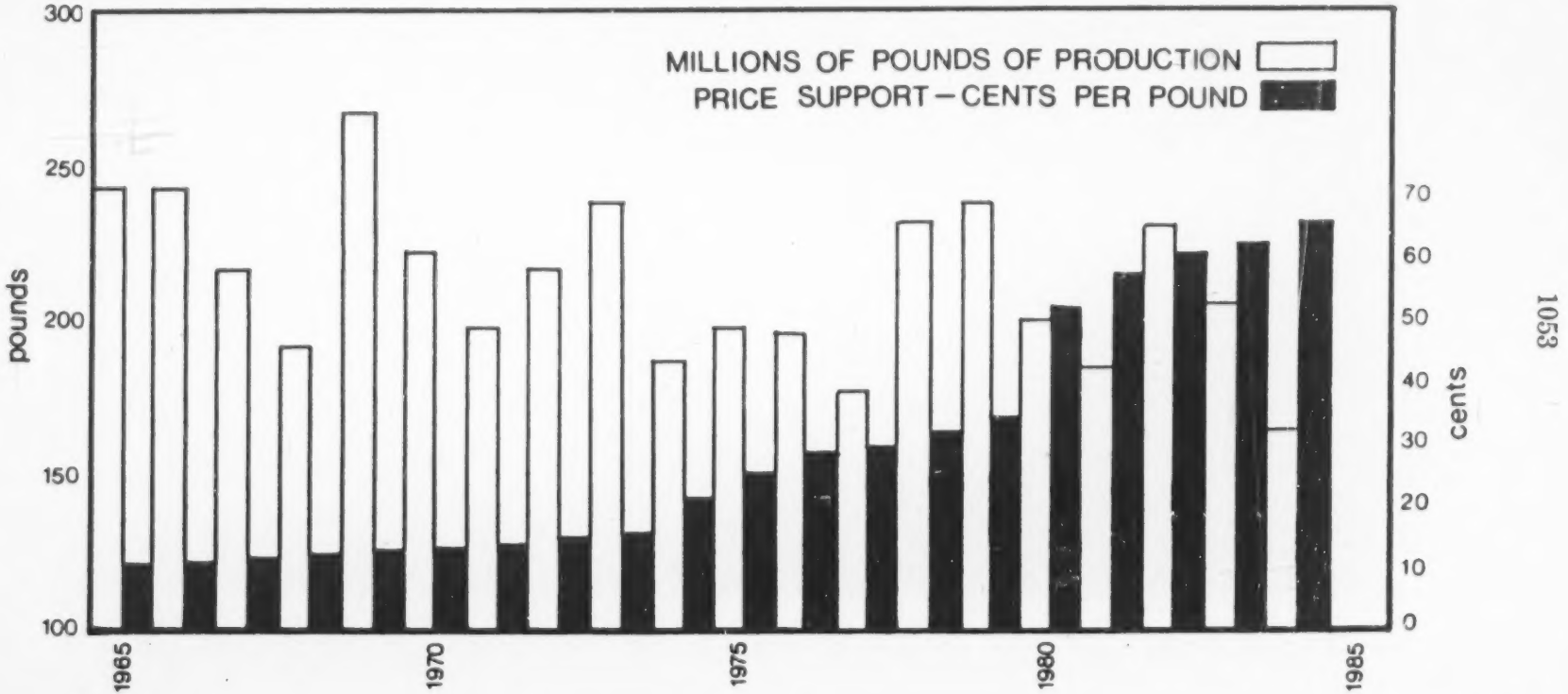

MILLIONS OF POUNDS OF PRODUCTION
PRICE SUPPORT – CENTS PER POUND
pounds
300
250
200
150
100
cents
70
60
50
40
30
20
10
0
1965
1970
1975
1980
1985

FIGURE 2

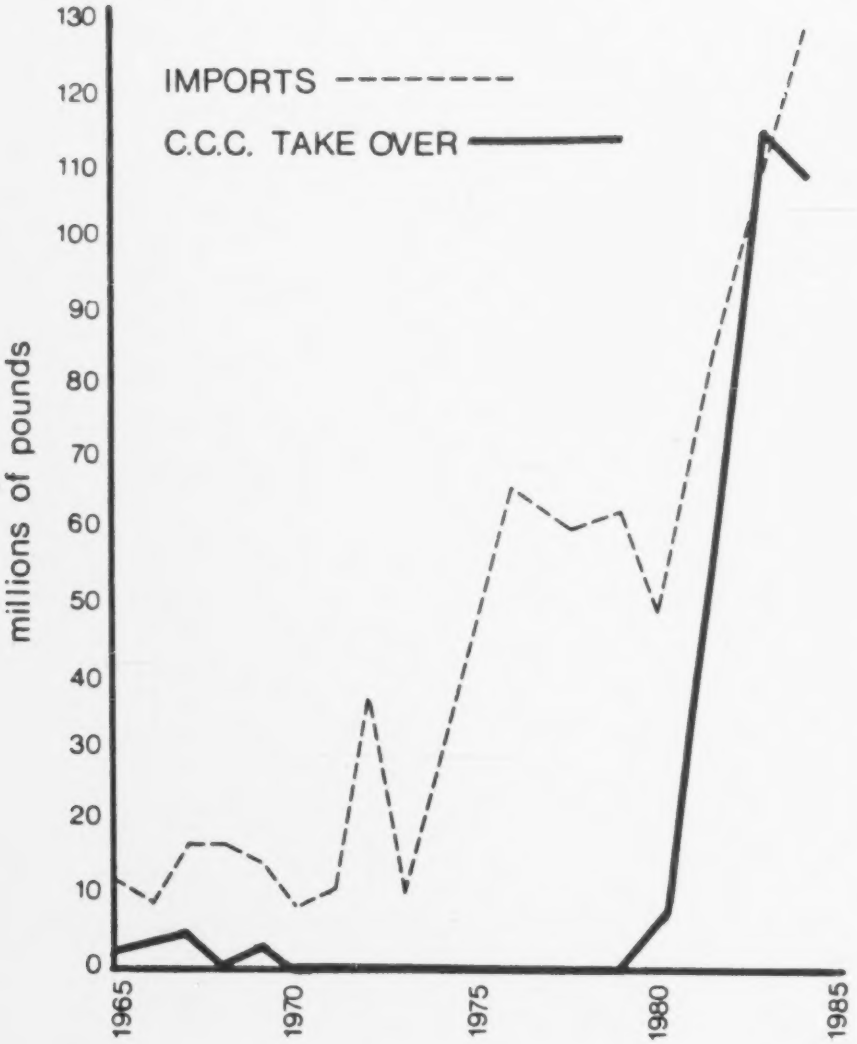

IMPORTS
C.C.C. TAKE OVER
millions of pounds
130
120
110
100
90
80
70
60
50
40
30
20
10
0
1965
1970
1975
1980
1985

FIGURE 3

IMPORTS
(millions of pounds)
COST OF PRICE SUPPORT PROGRAM
(millions of dollars)
130
120
110
100
90
80
70
60
50
40
30
20
10
0
1965
1970
1975
1980
1985

AMERICAN HONEY PRODUCERS ASSOCIATION, INC.,
Dillon, MT, June 10, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Ways and Means Subcommittee on Trade, Longworth House Office Building, Washington, DC.

DEAR SIR: My name is Robert V. Barnes and I reside at 24 North Walnut St., Dillon, Montana. My phone number is 406-683-4973.

I am a honey producer in the Southwestern portion of Montana, and also provide almond pollination services in California in the Spring. I belong to the Montana State Beekeepers Association; currently vice-president, the Mid-U.S. Honey Producers Association, The American Beekeeping Federation, and The American Honey Producers Association; serving as a director from Montana.

I am in business with my father and brother and operate as Beaverhead Honey Company, running around 4500 colonies of bees. We are migratory in nature. We haul our bees to California in the Fall on our own trucks. In the Spring we rent our colonies to almond growers for pollination and shake our own package bees to restock dead colonies; buying queens from commercial queen breeders. In late April we haul our bees back home to Montana in anticipation of a honey crop in the summer. By anticipation I mean we hope to make a crop. When you deal with Mother Nature you just aren't assured of success in your endeavors. But, as all agricultural people do, you carry on in hopes of a crop.

Prior to 1980, we had no real marketing problems. There was always some kind of market, even though you had to fight for a good price. But, it was always marketable! Then, cheaper imports\started flowing into this country and packers found it more profitable to buy import honey than to buy domestic honey.

The Honey Loan Program was always there to help, at least since 1949. Many producers used it, because it gave them some short term operating capital at a good interest rate, and gave them additional time to find a market. This all worked fine, with virtually no government takeovers, until 1980. We were always able to find a market and pay our loans off. In 1980, our markets dried up with the influx of large amounts of foreign honey being imported. Instead of buying domestic honey, commercial packers bought cheaper foreign honey and producers were forced to let our government take over their product. The problem has continued to worsen since.

No one producer in his right mind wants to turn honey over to the government. He would much rather sell through normal, dependable marketing channels. But, when there is a 20¢-30¢ price differential between the government support price and the price packers are willing to pay, you are forced to use the program.

Cutting the program out is not the answer. We all need some protection in light of current world marketing situations created, in part, by a strong U.S. dollar, and mostly, by our governments' policies of "so called free trade", with unrestricted imports and virtually no import duties. The loss of the program woul mean total destruction of the industry as we know it. We cannot compete with cheap foreign labor practices and crude beekeeping and processing techniques of foreign competitors while we are forced to conform to modern, sanitized, food approved processing facilities and are burdened by a Federal minimum wage standard. In addition to that, we are, for the most part, highly mechanized operators; a trait indicative of Americans who are always striving for a better way. Should we be penalized because of this?

Another USDA answer to our problems, an increase in pollination fees, is totally absurd. As a pollinator, I cannot tell my growers that I am increasing his pollination bill X amount of dollars or he will tell me one of two things. (1) Jump in the lake, or (2) I'll get them cheaper elsewhere. There is always someone willing to do the job cheaper, It is a matter of survival.

The grower is also in a financial bind. I am only familiar with the San Joaquin Valley of California, but I will give you a couple of facts to illustrate his problems. (1) Many people bought ground about six years ago when inflation was out of hand and interest was around 18%. They gambled that inflation was going to continue as would interest and they would ride the tide and come out fine. They borrowed on inflated land values. Well, today inflation is under control, interest is down, as well as land values, and their ability to borrow is diminished, or gone. But, they still have large debt loads to pay. (2) Many producers in the area we pollinate in belong to Blue Diamond Co-op. A large crop in 1984 and an anticipated large crop this year has created an oversupply. Almond producers were told they could expect about 98¢ per pound for almond meats on the 1984 crop. To date they have received aroud 57¢ and have been told by management that that may be all.

So, increasing pollination fees is out of the question. The facts remain that 90% to 95% of the entire pollination in this country is done free of charge, and the competi-

tion is keen for the remaining 10% of paid pollination. You can bet it would be much worse with the loss of this program.

Our industry will continue to survive and provide proper pollination services only through and by a thriving, profitable beekeeping industry based on honey production. The final conclusion is that the U.S. commercial beekeeping industry has no realistic alternatives to relying on honey production as the primary base of their industry. This country is fully capable of importing honey, but it cannot import pollination!

I would recommend the following solution to the growing problem of government takeover of honey. (1) Continue the loan program indefinitely at the present level of support; no changes. (2) Have a full scale investigation by the ITC on the effects of honey imports to our industry and FORCE the President to act FAVORABLY to curb the problem. (3) Place import quotas or adequate duties or both on imports to balance the difference between the loan program and present price offerings. (4) Make importing nations fall under the same rigid regulations, inspections, and specifications that we are made to adhere to.

I wish to thank you for this opportunity to speak my feelings on the Honey Loan Program, and hope that your final report will be favorable to us. Thank you.

Sincerely,

ROBERT V. BARNES,
Director, AHPA—Montana.

CHINOOK, MT, *June 24, 1985.*

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIR: It is quite urgent that the beekeepers who sell honey through our Sioux Honey Association and others who do not deliver honey to the government, have some relief from imports.

We are being hurt drastically by foreign honey reducing our profits. When operating expenses are steadily climbing, wages and gasoline, state, county and federal taxes are making it almost impossible to continue operating.

We are a family operation. I have run bees for thirty years. I would like to see it continue as a family business. Two sons, one son-in-law, one helper and myself pay our taxes every year, but the way it looks, they may be looking for a new job soon and I may try go on social security.

I strongly favor a change in the import system by higher tariffs or lower quotas. There is entirely too much imports hurting the American Honey Producer.

Sincerely,

DOYLE AND LEONA ANDERSON.

DAVISBURG, MI, *June 22, 1985.*

DEAR MR. J. DOWLEY: I'm writing in regards to the hearing on the Beekeepers Preservation Act H.R. 2382.

I've been a commercial beekeeper for 25 years. I'm 50 years old with a wife and three children. My children are all still in school. I now have the most bees I've ever had. I'm up to 625 colonies. It doesn't make sense to increase my hives and production of honey when I can't sell the honey I have now.

I firmly believe there should be a limit to the amount of honey coming into the United States. Along with the indemnity payment program to the beekeeper and when the loan is due the beekeeper doesn't reclaim his honey. Then the government is stuck with it. The cost of storing this honey is quite costly. This means you have many tons of honey to do something with.

With all of Uncle Sam's give away programs with honey my sales are down 40%. My costs keep increasing, but I cannot increase my price. If I do my competitor cuts prices and I loose a customer. When a commercial packer of honey can buy imports of honey delivered to his door for 32–34 cents a pound, why should he pay me (the local beekeeper) 55–65 cents a pound.

I believe there should be an investigation into honey imports. I also think you could eliminate the honey price support program. Prices should stabilize to a realistic level of 40–50 cents a pound. Now is the time to do something.

If the United States Beekeeper produces 200 million ton a year and the people consume 250 million ton, then we should only import what is needed for the consumers consumption.

Also without honey bee pollination, what will happen to the many plants and crops that require pollination.

We can only advertise to promote honey so much. Its just another added expense. We need your help now to help save the local beekeeper and the honey production in our own country.

Respectfully submitted.

DAVID E. BARBER.

BEAVERHEAD HONEY CO.,
Dillon, MT, June 10, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Ways and Means Subcommittee on Trade, Longworth House Office Building, Washington, DC.

DEAR SIR: My name is Earl G. Barnes, and I reside at 2400 Highway 91 South, Dillon, Montana. My phone number is 406-683-4430.

I am a honey producer is Southwestern Montana with two of my sons, and I also provide pollination service in California in the Spring. I belong to the Montana State Beekeepers Association, Mid-U.S. Honey Producers Association, and the American Honey Producers Association.

We operate our business as Beaverhead Honey Company, and operate around 4500 colonies of bees. We are migratory in that we haul our bees to California in the Fall for Spring almond pollination. We shake our own package bees each Spring to make up winter losses. We then haul the bees back to Montana for honey production.

I started out in the bee business in Orange County, California in 1946. As most California beekeepers do, I chased crops all year long up and down the length of the state, hoping to make a crop of honey. In the course of all this activity, we were also pollinating everything from oranges to cotton. I finally got tired of running up and down the roads and the California rat race and moved my family to Montana in 1956. There I purchased our current bee operation and have since been joined by two of my sons in the business.

Over the years I have witnessed many changes in the beekeeping business, and in honey handling and marketing. Everything used to be done by hand, from moving to processing. Now we have forklifts to move the bees, better trucks, and modern machinery for honey processing. I have seen honey sell for as low as eight (8) cents per pound to the current level of 69.5 cents. But, our expenses have continued to rise accordingly, and even though we may handle more money annually, we still are able to only extract a "meager living" from our operation. And, to accomplish this "meager living" we have had to increase our colony numbers as much as our "territory" will allow, and cut corners where possible in our operation. But, you still have certain fixed costs that just continue on in the normal operation of a business.

I have used the honey loan program for seven (7) years because it enabled me to borrow money for the short term at a "lower than bank" rate of interest. I was always able to find a buyer and pay off the note prior to five years ago, when imports started flowing into this country unchecked. At that time, our markets started to dry up, and are virtually gone today. It's a sad state of affairs when you cannot sell your product through normal marketing channels because some foreign country has taken them away.

We have tried for years, as an industry, to get the government to do something about the import problem, to no avail. In 1976, the ITC investigated and found that imports were definitely hurting our industry and recommended to President Ford that something be done. To make a long story short, he did nothing. Now here we are nine years down the road with the same problem, only bigger. I am certain that another investigation would find the same problem, only larger, and I would hope the President would act favorably this time.

I need the program to continue, as is. If we loose the program, where will I sell my product? How can I compete with cheap foreign imports? I cannot justify continuing my business only for a small pollination income it brings in. I am in the business to make honey and can only survive when I have a market for it. I cannot begin to eat 500,000 to 750,000 pounds of honey; a normal crop from our operation. And, at 60 years of age, I would rather not have to look for other employment.

Thank you for this opportunity to speak.

Sincerely,

EARL G. BARNES.

BEEKEEPERS ASSOCIATION OF SOUTHERN CALIFORNIA,
Pomona, CA, June 25, 1985.

JOSEPH K. DOWLEY,
House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: The importation of honey to the United States is now having the following effects on U.S. beekeepers:

1. The price paid for imported honey by U.S. packers and bulk users is about 15 to 20 cents per pound under what is required to produce the same honey in the United States.

2. The availability of low price imported honey has made U.S. packers and bulk users unwilling to pay a fair price for U.S. produced honey when available.

3. Imported honey can contain bee diseases, medication contaminants, and fumigation chemicals. These can be transmitted to U.S. bees from open handling, spills, consumers feeding of birds and wildlife, disposal of containers in open dump sites and other exposures.

4. Imported honey can be purchased at the low price, placed in new containers and then placed under the U.S. Honey Loan Program with substantial profit at tax payer expense.

5. The F.D.A. regulates U.S. produced honey as to which medication and fumigation chemicals may be used since these items may leave trace amounts in honey that can adversely affect consumers. Yet, imported honey does not have any of these consumer safeguards.

6. Imported honey is not required to have a label of origin on the finished consumer product (only the bulk container). This honey can then be passed off as U.S. Produced.

7. The market for U.S. produced honey is shrinking because of imported honey. More and more beekeepers are turning to the honey loan program to sell their honey. Since they cannot obtain a better price from packers and bulk users, the honey is never reclaimed from the loan so the U.S. government ends up with more to store.

8. The fees received from pollination contracts do not cover all of the costs of the beekeeper. Imported honey takes away the only other market the beekeeper has to make his business profitable.

Bees are a vital link in our food chain. Not for the delicious honey they produce, but because of the pollinating service they provide to so many important cultivated crops. Foreign beekeepers do not render this essential service. Bees are necessary, either fully or partially, for the pollination of more than 100 of the cultivated crops in the United States. Some of those crops, almonds, cranberries, pears, and apples for example, we all love to eat. Others, such as alfalfa and clover, are essential to our livestock and dairy industry. And some such as onions, carrots, and melons need bees to pollinate them for seed crops. (For more information see Insect Pollination of Cultivated Crop Plants, United States Department of Agricuture Handbook No. 496.) However, beekeeping in the United States is threatened by imported honey. 90% of our bees are kept by beekeepers with less than 100 colonies, and most have fewer than 35 colonies. They are primarily supported by the honey they sell because they are too small to receive pollination contracts from most gorwers. To undermine the bee industry with imported honey will have serious adverse effects on our agriculture industry as a whole.

The price and availability of the food we eat is in jeopardy. The beekeeper with his bees has provided the abundance of seed, fruit and nuts we depend upon for feeding ourselves and our livestock, and for rejuvenating the soil within the United States. But, we are facing increased population, which means more farmland lost to housing, yet the need for more food. The higher crop yields produced in fields pollinated by bees and other insects are going to be increasingly important. Many currently used insecticides and herbicides, designed to increase yields, are harmful to bees, which can naturally increase yields. To compound the beekeepers' problems by allowing the importation of cheaper honey is "penny-wise" and "pound-foolish."

The jeopardy to the existence of the beekeeper is manifold. Imported honey is preventing a fair return for U.S. produced honey. Bee diseases and imported wild bees are not receiving necessary research funding. The honey loan program is without incentive to repay. The give-a-way of surplus government honey within the United States also hurts the beekeeper. All of these things are interrelated. They cannot stand alone. The survival of the beekeeper within the United States is as important as any other component of our national defense. The beekeeper and his bees make possible, in abundance, the health and energy of our people and military forces, as

well as the natural health and energy maintained in the farm and wilderness lands of America.

The facts are all around when we look. I am a small beekeeper in California and I am seeing first hand the happenings I have mentioned above. I am also the current president of the Beekeepers Association of Southern California. Our association members are also being affected. My conversations with them have prompted this letter.

RECOMMENDATIONS

1. Limit the importation of honey to that amount needed to bring the available supply within 90 to 95% of the needs of the United States. This would provide U.S. beekeepers with an incentive to grow and explore new markets within this country.
2. Require the F.D.A. to inspect the imported honey for the same chemicals that are restricted or disallowed in U.S. honey. This should be a laboratory tested sample of each container at the time it enters this country with the shipment held in quarantine until testing is completed. Quarantine area should be inaccessible to bees.
3. Promotion of U.S. honey should be stimulated using tax incentives.
4. The honey loan program should be redesigned as a help for the beekeeper not a handout. The program is needed but not as it is now and not as the current proposals would change it.
5. Severly restrict the export of U.S. honey until the difference between production and demand have been eliminated.
6. Recognize the beekeepers' contributions to the standard of living we enjoy and provide the tax incentives and regulatory relief that will keep the beekeeper productive.
7. Use stockpiled honey to feed the hungry of the world.
8. Use stockpiled honey to help make up the difference between what is produced and what is needed.

I would like to close with a quote from the forward of Department of Agriculture Handbook No. 496.

It would be a serous omission if attention were not called to certain problems that agriculture may face if adequate provisions are not made by society to develop and maintain a viable bee industry and to protect other insect pollinators from several adverse forces that are working against them.

I submit that the importation of cheap honey is such an adverse force.

I will make myself available to be of whatever help I can if called upon.

Respectfully,

DALE E. HARRIS, JR., *President.*

BEES & BY-LINES,
Reedsport, OR, June 24, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

Good morning!

Beekeepers have been asked to comment on the Beekeeper Preservation Act of 1985 and SR 1025. I am a honey producer/packer (130-50 hives), do some pollination, and am a member of Oregon State Beekeepers' Association, Western Apiculture Society, and the American Beekeeping Federation. (Phone (503) 271-4726)

Imported honey hurts me in two ways: A. Imports prevent me from selling all my honey at a price in line with production as some foreign (China) governments subsidize their beekeepers. B. In addition the volume of imports reduces the amount I can sell at any price since only so much honey is consumed.

Our government loan program does help with loans but then floods our market with free honey. That does not help our sales. Although I have never used the commodity loan program, it does have an effect on my selling price as it gives a base price.

However, essentially this commodity loan program actually subsidizes the foreign honey producer by keeping our prices high and thus the packer is encouraged to purchase foreign honey.

Our honey facilities need to meet state/federal standards of cleanliness and so forth. What control do we have over imports?

Free open market doesn't operate in international honey selling and buying. We allow foreign honey in with very low duty. Many foreign governments either forbid

our entry or charge exhorbitant ad val. taxes, etc. Brazil I believe says no and China wants an 80% ad val. tax on ours.

I have seen only 2 honey products labeled foreign—Acacia from China by Silver Bow and Heins' Christmas pack of several small jars of honey from China, Hungary, etc. Many other large packers must be using the foreign honey (lots of foreign labeled drums in their lots) but I have never seen it included in their labeling, as is supposedly law now. We have enough of our own honey and I do not need to purchase from other sources; I pack what I produce.

Foreign bees will not pollinate our crops as they cannot fly this far and can't come in anyway—foreign bees are un-welcome! Yet our commercial beekeepers need the honey sales to help support their pollination activities, labor, and investments in expensive equipment. In addition to the $19 billion of crops for man pollinated by honey bees, there are untold values to wildlife (⅔ of their food sources, I'm told) and the soil-saving/enriching by plants which were bee pollinated and which hold soil from erosion, etc.

I believe we need reciprocal duties on honey. We need more promotion of honey and should do promotion through our beekeeping organizations and groups set-up by beekeepers such as the California Honey Advisory Board. We should not get involved in bad-mouthing imports for mud thrown if ground lost. We can say—Support your local honey bee; buy her honey, for she pollinates your food crops!

The U.S. government could also help the beekeeper/small business person in his/her financial situation-planning by not changing the tax rules so often!

As a beekeeper I thank you for the USAA Bee research stations and those who are working on our industry problems—mites, pesticides, the africanized bee, breeding of better bees, etc.

Thank you for your attention to the problems facing this nation's beekeepers.

Cordially yours,

Mrs. JOANN MANES OLSTROM.

BERNARD'S APIARIES, INC.,
Breaux Bridge, LA, June 14, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Ways and Means Committee on Trade, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: I am president of Bernard's Apiaries, Inc. a family-owned, closed corporation. I am past president, vice-president and secretary-treasurer of the Louisiana beekeepers organization—The Progressive Beekeepers of Louisiana. I am also a member of the Board of Directors and Legislative committeeman from Louisiana of the American Honey Producers.

Bernard's Apiaries owns 3000 colonies of bees in South Central Louisiana. We employ six people, five of whom are heads of households. Fifty percent of our business is derived from the sale of queen bees and package bees. The other fifty percent of our business is derived from the sale of honey.

For 25 years prior to 1984, we sold our honey to a packer in Ohio. In 1984 he informed me that he could no longer pay us .48 cents per pound and remain competitive. He informed me that he could get foreign honey for .35 per pound. I contacted several other packers and was told the same thing. Since it is impossible to pay my employees a liveable wage at .35 per pound, I was forced to put my honey under loan. Needless to say, I did not redeem it this year.

My recommendation is to place a quota on honey imports as well as a tariff. We, in Louisiana, agree that exporting countries should be allowed to ship a certain amount at certain prices, and any amount over would be charged a rate to make the imported honey price more in line with domestic honey prices. China and Mexico subsidize their honey production. This is unfair competition for us.

Should the Honey Loan Program be discontinued, without some form of relief from foreign honey, I would be forced to reduce the number of employees or discontinue operation. The situation is indeed serious.

SUMMARY

1. Three thousand colonies operated in South Central Louisiana.
2. Six employees depended on this business for a livelihood.
3. Used the Honey Loan Program as a last resort.
4. Less honey produced in the U.S. in 1984 than in two previous years.

5. Recommend an equitable quota and tariff on imported honey.

Sincerely yours,

JAMES D. BERNARD, *Owner.*

BEST HONEY FARM,
Sunfield, MI, June 25, 1985.

Re section 22.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

I would like to comment on the Beekeeper Preservation Act 85. It is imperative that the International Trade Commission investigate the affects of imported honey on the domestic market. I'm sure you will find the honey market is flooded with cheap imports while the domestic honey is going to the government through the support program. I urge you to continue the support program while we beekeepers promote honey through the Research and Consumer Information Act. Certainly we must preserve the beekeepers of our nation for the pollination they do. The beekeeper gains monitarily for this service through the honey. My own beekeeping operation which is near the fruit belt gains 10% of its gross income from pollination of specialized fruit crops. A Section 22 investigation of the honey import is paramount and hearings should be scheduled as soon as possible.

OREN BEST, *Beekeeper.*

STATEMENT OF RICHARD E. BLAKE, SHENANDOAH, IA

Mr. Chairman and members of the committee, I am a small commercial beekeeper and I own 1,500 colonies. I am a directof of Sioux Honey Associaiton and also a representative for the American Honey Producers on the Washington committee. I was in Washington, DC. in February this year along with other members of the American Honey Producers.

I produce 80,000–140,000 lbs. of honey per year. It is all sold to Sioux Honey Association for around .50–.52 per lb. After expenses, I usually net $20,000–$40,000 on a good year. This is a very small return on a $200,000–$250,000 investment.

Our cooperative earnings would be greater if we could restrict imports to approximately 50 million pounds. We cannot compete with other packers buying an unlimited amount of imported honey in the 0.33–0.40 range. There is no way our cooperative can return to its members a price even close the the price support level—top, 68.5¢. Sales have decreased 16% due to competition and Government give-away programs.

A possible solution is as follows:

1. H.R. 2382—The Beekeeper Preservation Act of 1985 be passed and Section 22 be implemented.

2. The present price support program should be retained at least until the imported honey is mostly removed from the market and the vast amount of Government honey is disposed of.

Your consideration will be appreciated.

BROWN HONEY FARMS,
Haddam, KS, June 5, 1985.

JOSEPH K. DOWLEY,
Ways and Means Subcommittee on Trade,
Longworth Building, Washington, DC.

DEAR MR. DOWLEY: I am a member and Kansas Director of The American Honey Producers Assn, and a member of the Kansas Honey Producers Assn. I have been a member of both of these organizations for twenty years.

I have been a full time beekeeper for twenty-one years, operating 2,300 hives of bees in Kansas and Nebraska.

I have two sons who are also full time beekeepers. One is on his own, and one works with me, attempting to buy some of his own bee hives.

I have used the Honey Loan Program for twenty-one years and have found it very helpful obtaining necessary operating capital until my crop was sold.

I haven't had any problem selling my honey to U.S. honey packers until the flood of foreign honey imports came into the U.S. the last few years.

I haven't sold my honey to the government until the 1983 crop and 1984 crop, when I could not receive any offer to buy my honey from packers, due to imports.

I am in an area where I am not able to collect any pollination fees. The farmers cannot afford it.

I cannot continue to operate my business on the present world price of honey. In our country the high cost of labor (I have one full time employee and two part time employees), gasoline, utilities, equipment, and supplies are so high I only make a fair income at the present support price of honey.

I believe the Honey Loan Program should be continued, and also a 25¢ to 30¢ import tariff be put on honey along with quotas on honey imports.

SUMMARY

1. Honey bees are vital to pollinating many agricultural crops.
2. No pollination fees can be received in my area.
3. Foreign honey imports have destroyed the honey market.
4. Present world honey market price would bankrupt most beekeepers.
5. Honey Loan Program is useful for operating capital.
6. Honey Loan Program should be continued.
7. Place a 25¢ to 30¢ tariff on imported honey.
8. Place a quota on honey imports.

Very truly yours,

ROBERT I. BROWN.

BROWN HONEY FARMS,
Haddam, KS, June 26, 1985.

JOSEPH K. DOWLEY,
Ways and Means Subcommittee on Trade,
Longworth Building, Washington, DC.

DEAR MR. DOWLEY: I am a member of the American Honey Producers Assn., and a life-time member of the Kansas Honey Producers Assn. I am twenty two years old and am attempting to buy enough bee hives to become self-supporting. I currently work for my father with his beekeeping outfit.

I grew up in a beekeeping family and have seen that imported honey started hurting the market in the mid 1970's. By the early 1980's nearly all beekeepers in the industry including myself have had to forfeit our honey to the government.

It is plain and simple to see that if a large tarrif (30¢) were put on imported honey, the government would have practically no honey delivered to the C.C.C., and the Honey Loan Program could be continued at virtually no cost.

The American farmers need the honey bees for pollination of their crops. Pollination cannot be imported. Neither can the farmer afford to pay us for pollination.

The number of beehives in the U.S. have been on a steady decline since the early 1950's. The average yield per colony has also declined.

SUMMARY

1. Imports have destroyed the honey market.
2. A 30¢ per pound tarrif is needed on imported honey.
3. The honey loan program can be continued at a low cost.
4. Pollination is a must for agricultural crops.
5. Pollination cannot be imported.
6. The amount of honey produced has declined since the 50's.

Respectfully submitted.

JERRY A. BROWN.

FALMOUTH, MI, *June 19, 1985.*

DEAR SIR: I am writing to express my support for H.R. 2382 "Beekeeper Preservation Act of 1985" and its companion bill S.R. 1025. Having been involved in beekeeping for 20 years and a commercial beekeeper for the last 12 years I realize the great benefit of bee pollination on our food chain.

I have seen the beekeeping industry come to its knees by a flood of imported honey. Our bottling operation sales are less than 15% of what they were just 2 years ago.

12 years of providing top quality honey and excellent service have gone down the drain. The world price of honey is currently well below a debt free, highly efficient operation cast of production.

I implore you to begin a Section 22 investigation as soon as possible.

Thank you.

DONALD A. BYRNE.

C.M. GOETTSCHE & Co., INC.,
Ridgefield, CT, June 17, 1985.

Hon. JOSEPH K. DOWLEY,
House Ways and Means Committee,
Longworth House Office Building, Washington, DC.

MEMBERS OF THE COMMITTEE: C.M. Goettsche & Co., Inc. is one of the largest honey trading companies in the United States, and as such, is vitally concerned with the ongoing health of the American honey industry.

H.R. 2382 has been introduced at the behest of a pressure group of American beekeepers in order to pomote a Section 22 investigation into the importation of honey into the U.S.A. and the institution of punitive tariffs against foreign honey. Honey imports have greatly increased in the past few years: this increase has been caused by the stupendous rise in the price per pound paid for domestic honey to American beekeepers by the U.S. agricultural commodity support price system. This rise has placed the domestic product beyond the reach of the American bottler and consumer.

Whilst foreign producers have contained costs of production to a reasonable rise of approximately 20 cents per pound over the past five or ten years, the U.S. price support has risen by as much as 40 cents per pound. The result now is that the average world price for honey is between 30 and 40 cents per pound delivered to east coast U.S. ports, and the government support price/loan program is taking over huge quantities of domestic honey at levels of 50 to 70 cents per pound.

The bill under consideration is transparently designed to enshrine this expensive discrepancy in perpetuity by artificially raising the price of foreign honey to meet the already inflated levels of the price support program.

The U.S. beekeepers argue that these high levels are necessary to preserve beekeeping in North America. However, reading between the lines, the true argument is that the uncritical and generous customer that has emerged in the form of the U.S. Government has become a comfortable fact of life for the U.S. beekeeping industry. The industry is suggesting that the American taxpayer should be now legally enjoined to approve this curious economic aberration by eliminating the consumers' access to market priced honey.

It will also abruptly destroy the already decreased flow of export honey from the United States, most of which is already imported honey reprocessed for the foreign trade.

We would like to bring before the committee our complete opposition to a measure that would be not only harmful to the United States honey industry as a whole, but also needlessly expensive for the consumer and taxpayer who will be financially responsible for its instrumentation.

We are sure that the committee will eventually agree that the only likely outcome of the passage of this measure would be the disappearance of the last incentive for American producers to contain their costs as their international counterparts have successfully done.

Respectfully submitted, we remain,

Yours faithfully,

CAROL M. GOETTSCHE.
MORGAN J.D. MANLEY.

CARY'S HONEY CO.,
Gothenburg, NE, June 25, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: As a member of the NE Honey Producers Ass'n. and a member of the American Honey Producers Ass'n., operating as a honey producer in 7 states, I would like to file the following statement regarding H.R. 2382, which

would mandate a Section 22 investigation by the International Trade Commission of the affect of honey imports on domestic producers.

For the last 4 years, I have had to forfeiture my honey to the CCC. This should not become a normal trend, but as long as imports are allowed to continue without any quotas, it will continue to happen. If CCC would no longer allow us to forfeiture our honey, disaster would become many of us as U.S. honey producers. There is not a problem with overproduction of honey in the U.S.

I urge a review of this situation.

Sincerely,

ROBERT E. CARY.

CHIEF MTN. HONEY CO.,
Babb, MT, June 19, 1985.

MR. JOSEPH K. DOWLEY: I'm writing in regard to H.R. 2382, Beekeeper Preservation Act of 1985. I support this proposal and urge your committee to take action resulting in a positive recommendation. We are sideline beekeepers running about 250 colonies of honey bees. Because of our remote location, we are unable to retail much of our production and must sell on the open market at wholesale prices.

We've seen the whole sale price drop since 1980 while domestic production has remained static and consumption has remained at 1970's levels. Based upon supply and demand, the drop in price while consumption and domestic production remain stable can only be caused by the importation of greatly increasing quantities of honey. A recent Dep. of Agriculture review had statistics that directly supported these conclusions. Since the support program for honey began in 1949 domestic production and # of bee colonies both initially declined and then leveled off through the seventies. The Reagan administration feels that support programs encourage overproduction, but the above mentioned figures refute this cause of present low prices. We are fighting a battle against imported honey often subsidized by foreign governments and low price due to cheap wages and a lower standard of living. The last investigation of our situation recommended relief action under President Carter in, I believe 1976, but the President over rode the recommendation. The problem has increased to the point where most of the U.S. production is going to the government and domestic consumption is supplied by foreign honey. The U.S. has become the world dumping ground for honey.

I wish I could go into detail on the reasons behind my feelings, but the honey is flowing and the bees need work so must end this. I thank you for any help you can give us, the U.S. beekeepers. We are a small industry and thus not able to mount an impressive lobby, but we are hardworking citizens and the benefit all U.S. agriculture derives from honeybee pollination will only be realized and fully appreciated if and when the government causes the death of our domestic industry. Thank you.

Yours truly,

ROBERT FULLERTON.

STATEMENT OF BILL AND JOYCE CHRISTIAN, CHRISTIAN HONEY FARMS, SIBLEY, MO

Nine years ago we started our beekeeping venture. At that time beekeeping was looking pretty good. But it has been all down hill since then. As a matter of fact, Leahy Manufacturing Co., of Higginsville, MO who made beekeeping supplies and was shipping them out by the car load in 1977, went out of business in 1983 and 40 to 50 jobs were lost. Leahy Manufacturing Co. had been in business since the late 1800s.

At first we wholesaled most of our honey. But it became apparent that it was necessary for us to pack our own honey. We started packing and selling directly to grocery stores in 1981. For several years that worked pretty well. January of 1984 we bought a delivery van and made deliveries every two weeks to the stores. Our sales were climbing and we needed to buy some honey as we did not produce enough to fill the need. As packers we found that we could not buy domestic honey at a fair price to the producer that would allow him to make a living and us too. In fact, we would lose money due to the flood of cheap imported honey.

In December of 1984 while we were promoting our honey in a large metropolitan grocery store using a glass observation hive, recipes, talking to people, etc., we met a food broker who was interested in representing our honey. After several meetings with the broker he assured us he could get our honey into the warehouses, double our sales immediately and possibly triple them. We decided to go with his program which meant that we would need to expand our operation and employ another

person. One week before the broker was to make the presentation to the warehouse, Busy Bee (Barkman Honey Company of Hillsboro, KS) cut his prices with the aid of imported honey. The broker advised us that it would be very difficult to get into the warehouse without being competitive. If we met Barkman's prices we would not have enough margin to expand the operation and have a living.

Since January of 1985 we purchased some honey from Canada which still does not allow us to compete very well with cheaper overseas honey. The Federal labeling laws requires that we state country of origin on our labels, which we do. Since we have put product of USA and Canada on our labels our sales have steadily fallen. Busy Bee is a large importer of Chinese and Argentina honey. Sioux Honey, a coop packer with membership made up of American and Canadian beekeepers, was told by U.S. Customs that they had to label the honey they get from their Canadian members with the country of origin. Sioux Honey is also having trouble competing with the imported honey. While we comply with the law and lose sales, Busy Bee does not comply and just keeps selling unlabeled imported honey.

On February 8, 1985 we telephoned the U.S. Customs in Kansas City, Missouri and asked them to enforce the law requiring labeling of imported honey. We wrote a letter of confirmation on February 9, 1985 listing the names of honey packers in this area that are not complying with the law including Barkman Honey Co. Several weeks later we called Customs to see what was happening and was told don't call us, we will call you. About a month after that we called again and was referred to the investigator on the case, Richard Kresl. He said he had talked to Barkman Honey and that they said they would comply. When asked why Barkman was given more time since the law states it is to be pulled from the shelf in August of 1984 if not properly labeled, he said he did not have a copy of the law and could we send him a copy! We have heard nothing from Customs since then. Barkman Honey still is not labeled as to country of origin.

If the price support program is cut partially or completely, beekeepers will be forced out of business with no place to sell their equipment. U.S. produced honey cannot compete with government subsidized foreign honey. Labeling foreign honey might help some but we don't think it is the entire answer. We need tariffs on the foreign honey. If the tariffs are stiff enough, the U.S. produced honey will be brought by the honey packers instead of the U.S. Government.

A word of explanation about pollination since some people think that beekeepers could make it on pollination alone. Bees pollinate $18 billion worth of crops in the United States each year. But that does not mean that most beekeepers get paid for the pollination. Very few get any fees at all. But if the beekeeper goes under it will impact on many crops.

In talking to other people we have found that farmers are also suffering from imports. The manager of a large grocery store in Kansas City told us that he did not understand why but that he could buy pork cheaper from Canada than from Kansas. A farmer in South Dakota told us that he had a bin full of oats that he could not sell as the people to whom he used to sell now buy oats from Argentina.

Agriculture is hit with raising prices on the supplies they buy, high interest rates and cheap imports. For instance, we have had four price increases on the glassware we buy while the price of honey on the grocery store shelf is going down.

We need help now. Please support the Beekeeper Preservation Act of 1985 (H.R. 2382 and S. 1025) which would mandate a section 22 investigation by the International Trade Commission.

MESILLA, NM.

JOSEPH K. DOWLEY,
Chief Counsel, Ways and Means Subcommittee on Trade, Longworth House Office Building., Washington, DC.

DEAR MR. DOWLEY: Upon returning home from the service in 1946 I bought 700 colonies of bees. I have been a full-time beekeeper since that time, increasing to the 4,000 colonies I now have. I am a dues-paying member of the American Honey Producers' Association, as that organization seems to represent the honey producer best.

Last year, 1984, was the first year I have been forced to turn my crop over to the Commodity Credit Corp. I resisted in previous years because I did not want to feel that I in any way compounded the problems of the industry. In 1983 I took a 14¢/# loss on my crop in order to not deal with the CCC. However, in 1984 I was offered 32¢/# for the crop which I eventually turned over to the CCC for 65¢/#. At current labor costs, fuel and equipment costs there is no way I can stay in business on

32¢ honey. I must pay more for one man-week of labor than some of my overseas competitors pay for a man-year of labor.

The only viable solution in my opinion is a continuance of the present loan program until an effective tariff system on foreign honey and/or a meaningful quota system based on national production in the U.S. can be implemented.

As far as the controversial Honey Promotion and Research Program is concerned, I cannot see the value of my paying for research or advertising of honey if the markets created will be filled with additional imported honey. I realize the importer is to be assessed at the same rate as the domestic producer, but when he can request the return of his assessment, he is almost certain to do so, defeating the purpose of the program.

Very truly yours,

JOHN K. CLAYSHULTE.

STATEMENT OF JERRY COLE, BOSQUE FARMS, NM.

In filing this statement I would like to first give you some information about my business as a beekeeper and a honey producer and affiliations with associations in the beekeeping industry.

I own and operate approximately 2500 colonies of honeybees in the state of New Mexico. These bees are located along a 200 mile stretch of the Rio Grande Valley and in several other areas of the state suitable for beekeeping. I am one of the larger beekeepers in the state of New Mexico. Beekeeping is my sole occupation and only source of income. I have been in the business for 25 years.

At the present time, I am President of the New Mexico Beekeepers Assoc. and I have held this position for at least a total of 10 years. Through this position I am kept well aware of the status of the beekeepers and the honey industry in New Mexico. Also I have been a member of The American Honey Producers Assoc. for the past 17 years and am a director from the state of New Mexico to this national organization and one of the five executive committee members. For the past 22 years I have been a member of the American Beekeeping Federation and am also a director from the state of New Mexico. Also I am a member of the Southern States Beekeeping Federaton. Over the years I have attended most of the conventions of the above named organizations. I have made several trips to Washington, D.C. on honey industry related matters.

Our business is primarily family run and operated but we do hire from 2 to 4 fulltime employees. Because of the climatic conditions and the geography of the state of New Mexico, it is necessary to have beehives over a large area in the state but mostly in irrigated farming areas. The bees obtain honey from alfalfa, sweetclover, sage, apples, pears, peaches, cherries, saltcedar, mesquite, and many other wildflowers. The income from the business comes primarily from the sale of honey. Our bees supply pollination for many of the crops of New Mexico simply because they are there. We do rent some of our bees each year for primarily apple pollination in the northern reaches of the Rio Grande Valley. Because of the concentrated orchards in this area, bees cannot be permanently located there because of the insecticide spraying. The bees must be moved in and out each spring for the bloom and the growers are absolutely dependent upon me and my honeybees to produce a crop as there are no other beekeepers to bring beehives in. I derive less than one percent of my income from pollination fees.

We bottle a fair part of our honey and deliver it and sell it to stores, restaurants, and certain institutions. In the past we also sold a fair amount of our honey for bakery use in bulk (barrels). We actively pursue any market we can find for our honey.

Up until 1981 we could sell all the honey we produced. We made use of the USDA honey loan program to finance our operation until we could sell the honey. Starting in 1981, we could not sell all of our honey and part of it had to be forfeited to the government to pay the loan on the honey. This was due to a large increase in the amount of honey being imported into the country, particularly as Red China entered the honey exporting business. Each year since then we have seen a decrease in the amount of honey that we could bottle and sell and an increase in the amount of honey we had to turn over to the USDA. The big honey packers will not even talk to us about buying our honey and simply buy all foreign honey. There is just no way we compete with the price of foreign (ten cents per hour wages in China), the price of fuel (17 cents per gallon for diesel in Mexico), the subsidizing of honey by certain countries, and because of the high value of the dollar in relation to foreign currencies.

Under the loan program, the price paid to us for ambe honey has remained at 54 cents per pound for the past three years and dropped to 53½ cents for 1985. In the meantime our costs have increased for most everything we use. Particularly fuel, some for wages, and there was a large increase in the amount of social security tax for self employed persons last year. It has been a downhill run. We hung on through selling off our inventory, not buying any new equipment and just doing without.

In the United States we do not produce enough honey to meet domestic consumption and we would have a healthy industry if it were not for excessive imports. As far back as 1976 we tried to do something about imports by asking Congress to have the International Trade Commission to investigate the effects of imports on the domestic honey industry. This was done by the ITC and they found that the imports were damaging the ability of the honey producers to stay in business and maintain enough bees to pollinate the crops in this country. The president vetoed the ITC finding and we were shot down and many beekeepers shutdown.

There is and must be a solution. There is no way that this country can consume all of the honey in the world. First, we must maintain the present honey loan/price support program. Then because of the refusal of the Secretary of Agriculture to request a section 22 investigation by the ITC or even be honest in dealing with the facts about the industry, we are asking Congress to mandate a section 22 investigation. Through this it is our expectation that a way can be found to limit imported honey to the amount needed to supply the demand over and above the domestic honey production. With this done the cost to the government of the honey loan/support price program can be dropped to pratically nothing since the USDA will no longer need to take over honey.

Therefore, in view of the information given above it is my request that the U.S. House of Representatives approve H.R. 2382, The Beekeeper Preservation Act of 1985, in order that American honey producers might survive and be able to maintain an adequate population of the indespensable honebee for pollinating many of our crops and much of our food supply.

SANGER, CA *June 25, 1985.*

Hon. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIR: We are proud to be American Farmers who for the past twenty-eight years have helped feed the American People, as well as much of the rest of the world. However, if the farm economy continues in the same depressed state we don't know how much longer we can continue farming.

Beekeeping is not only our livelihood but it is also vitally important to the farming industry which depends on bee pollination for good production of many crops.

We, in the Beekeeping Industry, desperately need your help in stopping or at least reducing the importation of low-priced honey with virtually no restrictions, making it impossible for American honey to compete in the marketplace and earn enough to pay expenses, let alone make a profit. We ask your support of HR2382 and/or SR1025. We desperately need your help.

We would also like to see the honey giveaway program stopped. This program cuts drastically into the saleability of our honey because those who receive it free from the Government certainly will not buy it.

Please do whatever you can to help the Beekeeping Industry and all segments of farming.

Sincerely,

KENNETH C. AND MARILYN J. DALE.

STATEMENT OF TROY H. FORE, JR., JESUP, GA

I am commenting in support of H.R. 2382, introduced by Rep. Chappie (Calif.) and others.

I publish a trade journal (The Speedy Bee) for the beekeeping and honey industry. I am a second generation beekeeper and immediate past president of the Georgia Beekeepers Association.

Our beekeepers are beset by a wide range of problems, the most prevasive of which is the displacement of domestic honey in the marketplace by cheaper imported honey. Over the last 10 years, the United States has moved from being a net exporter of honey to importing a volume of honey which approximates one-half of the U.S. honey production.

Aside from the honey distirbuted by the various USDA programs, we consume about 250 million pounds each year. Domestic production averages about 225 million pounds, so, we must export about 25 million pounds each year to satisfy the demand. But in 1983 some 110 million pounds of foreign honey were imported. The honey displaced by the excess imports went to the Commodity Credit Corporation thorugh the Honey Loan and Price Support Program. The result is that the Federal government is buying U.S. honey while the consumer is eating foreign honey.

Despite this situation, the Reagan administration has refused to seek an investigation of honey imports and their relationship to the domestic industry. This investigation, mandated by H.R. 2382, is necessary to determine what steps should be taken to correct the situation.

Why should you be concerned about the fate of the American beekeeping industry? Aside from the economic disruption and hardships that would be suffered by the beekeepers, their employees, and their families, the consequences to agriculture and the nation must be weighed.

The U.S. honey crop has a wholesale value of only about $130 million, but the value of the honey bees—through pollination to U.S. agriculture has been set by the USDA at $18-20 billion. A list of 129 crops which benefit to varying degrees from insect pollination has been compiled, and honey bees are the prime source of this pollination activity.

Mankind would not starve were there no honey bees, but neither would be enjoy the abundance and variety of food which graces our tables today. Although we beekeepers are trying to tell the story of pollination, the American beekeeper is and will continue to be dependent on the honey market for a long time. A strong honey market is essential for a strong beekeeping industry.

SUMMARY

We cannot continue to have a strong honey industry unless some sort of action is taken to alleviate the current flood of imported honey. I urge the Subcommittee on Trade and the Ways and Means Committee to support H.R. 2382 and the investigation it mandates.

EXETER, CA, *June 10, 1985.*

JOSEPH K. DOWLEY,
Chief Counsel, Ways and Means Subcommittee on Trade, Longworth House Building, Washington, DC.

DEAR MR. DOWLEY: As a California beekeeper I want to lend my support to the Beekeeper Preservation Act (H.R. 2383). I am a member of the Board of Directors of the California State Beekeepers Association, past President of the Ventura County Beekeepers Association and past President of the Tulare/kings County Beekeepers Association. I operate approximately 2000 colonies of bees in Central California for pollination service.

The importation of foreign honey has created a crisis in the Beekeeping Industry. The Beekeeping Industry is unique and unlike any other in the world. The production and sales of honey keeps the price of pollination service down. Without a stable and equitable honey market many beekeepers are being forced out of business. Honey can be imported; pollination service cannot and over 100 crops depend on pollination.

I believe that if a section 22 investigation is conducted, a recommendation on import relief will be made. We must not support the world honey production anymore. They do not pollinate our crops.

Sincerely yours,

ROBERT GETMAN, *Beekeeper.*

GUERNSEY MEADOWS APIARIES,
Muskego, WI, June 6, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY AND COMMITTEE: I am a vice president of the Wisconsin Honey Producers and also own and operate my own commercial beekeeping operation.

The most pressing issue in the beekeeping industry today is one of imported honey. The problem is not caused by the high government support rate nor by bee-

keepers over production but instead its caused by a combination of world problems. Some of them being, the strong American dollar, the low standard of living in other countries which results in lower wages, subsidies given by other governments to their beekeepers, excessive tariffs of restrictions placed by these governments on importation of honey into their countries. These are just a few examples of the causes of our problem.

At one time I use to sell my surplus honey production to Honey Acres, Inc., Ashippun, Wisconsin. This past years crop (1984) I contacted the owner about selling my honey to them, he told me that I should sell it to the Government because he could get so much cheap foreign honey at a price that I could not afford to produce at. He also told me that instead of packing and selling the honey that their own bees produced that they were going to sell their entire production to the U.S. Government.

Because the economic well being of myself and the Wisconsin beekeepers that I represent depends upon (H.R. 2382) I strongly urge you and your committee to support this trade measure.

Respectfully submitted.

LES PHILAJA.

H&J HONEY CO.,
Santa Paula, CA, June 25, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR SIR: I support the Beekeeper's Preservation Act of 1985.

I am a full time beekeeper. A member in California State Beekeepers Association.

I believe in the free enterprise system and in the past couple of years have had to sell my honey at 4-6 cents a pound less than loan for this belief.

This year my buyer told me he could not come within 12 cents of loan to compete with other packers buying foreign honey.

To remain in business I have to sell to the Government.

I also rent bee's for pollination this is only part of my income we must have a fair price for honey to remain in business, to be able to continue, to be able to supply bee's for the pollination of over 50% of the food we eat.

Respectfully submitted.

RICHARD S. JOHANSEN.

STATEMENT OF HARRELL & SONS, R.V. HARRELL, OWNER, HAYNEVILLE, AL

Harrell & Sons is preparing for our 66th year of Beekeeping. The third generation in our family is now fully involved, and dependent on our bee business for a living. Our business has grown from two hives of bees in 1920 to twenty thousand (20,000) that we presently operate.

I am presently Treasurer of the Alabama Beekeepers Association. My wife, Coralyn T. Harrell, is Secretary of this organization. She is also Secretary-Treasury of the American Bee Breeders Association. My son, Richard Harrell, Jr., is Vice-President of the Alabama Beekeepers Association, as well as one of the directors of the American Bee Breeders Association. We have been affiliated with the American Honey Producers Association and American Beekeeping Federation for many years.

We are the largest beekeepers in the State of Alabama, and one of the largest producers of package bees and queen bees in the United States. Our family's many years of hard work and dedication to the beekeeping industry could very easily come to an end. The reason for this is certainly not our fault, or the fault of any other beekeeper in the U.S. Five years ago, the beekeeping industry enjoyed a strong, stable honey market that we had worked many years to establish. The basis for this strong market was simply the law of supply and demand, and no help from anyone. When the U.S. Government decided to get involved with their support price, most beekeepers were strongly opposed. The Government did it any way, and this led to more and more importation of cheap honey from foreign countries, which completely destroyed the market that had taken us so many years to establish. This left us dependent on the governments support price to survive.

Not all beekeepers have bees just for honey production. Some sell package bees and queens, as we do, and other contract their bees for pollination, but all beekeepers welfare is directly determined by the price of honey. Although beekeepers are

small in number compared to some other areas of agriculture, there is still one very important fact: Agriculture as a whole would certainly perish without the pollination of the honeybee.

It seems to me that is very unfair, as well as unwise, to eliminate the honey support program at this time. It would put a majority of the U.S. Beekeepers out of business in one year. No business could stand a fifty per-cent (50%) cut in price of their product and survive, unless this change is accompanied by strict controls on honey importation.

The fact still remains that if the Honey Support Program is dropped, it would make the beekeepers, as well as all agriculture, suffer for something that in no way are we the blame.

Harrell & Sons respectfully request's your support for the continuation of the honey support program to remain as it is today, until the problem can be resolved by other practical means.

HENKELMAN HONEY,
Defiance, IA.

JOSEPH K. DOWLEY,
Chief Counsel, House Ways and Means Committee, Longworth Office Building, Washington, DC.

DEAR SIR: I am Francis C. Henkelman, Defiance, Iowa 51527, Box 272. My phone No. is (712) 748-4661. I am a member of the American Beekeeping Federation, a director of Iowa Honey Producers, and a past President of Iowa Honey Producers.

I have been in the beekeeping and honey business over fifty (50) years. I have operated our own family business for about forty (40) years. I am a member of the Sioux Honey Association. This great organization was started by 5 or 6 beekeepers with a great vision to market the honey. It has worked well, but with the country being flooded with cheap foreign honey and government give-away program, it makes one wonder if we can survive.

So I'm speaking out. I can't remain silent any longer. We can't allow everything we worked for to be taken away by foreign honey producers. Pollination of crops will suffer if the beekeeping industry goes under.

I would recommend that some quota on the amount of honey imported to this country. I would surely put a tariff to bring the price up to the same level as American produced honey. One cent a pound is all they have. This is 1985. A far cry from 1920 or 1930.

I hope the International Trade Commission can investigate the effect import honey has on the honey producers of the United States.

Under Sec. 22 of Agriculture Adjustment Act the ITC would be required to investigate the effects of foreign honey on the industry and somehow stop the flow of honey coming in.

Please Help Us! Free trade can also be fair trade.

Yours truly,

FRANCIS C. HENKELMAN.

HOFMANN APIARIES,
Janesville, MN, June 20, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

The following is a brief statement we wish to offer in support of HR 2382 (Beekeeper Preservation Act of 1985) which calls for a mandatory Section 22 investigation by the International Trade Commission pertaining to the excessive importation of honey on the U.S. Beekeeping industry:

(1) Price. We are essentially wholesale producers, and market our honey through a co-op. A co-op obligated to market honey in competition with cheap foreign honey imports is in an untenable position and can't possibly keep sales and prices up to a realistic figure for their members. Commercial honey packers can buy foreign honey for 20¢ per lb. less, and are taking advantage of it.

(2) Tariff. The 1¢ per pound import tariff on honey is a most unrealistic figure, especially in view of price changes since it was first put into effect. If this tariff had increased proportionally, it should now be about 10¢ to 15¢ per pound, and with that the beekeeping industry could survive.

(3) Pollination. The honey bee is aunique servant to our national economy in the pollination service it renders. The honey produced in this country bears the burden of furnishing over 90% of the income to beekeepers, but in producing this honey the bees perform literally billions of dollars worth of pollination. In contrast honey imported into this country brings with it no pollination, only more profit for a few importers and a depressing and chaotic effect on the domestic market.

We urgently request that hearings be scheduled as soon as possible on a Section 22 investigation on the effect on honey imports.

Thank you.

CHAS. C. HOFMANN.

HOMESTEAD APIARIES,
Dennison, MN, June 23, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Longworth House Office Building,
Washington, DC.

DEAR SIR: My wife, Bette, and I have a small commercial bee-keeping operation in SE Minn. of 1,100 hives. We migrate to Texas in the winter for build-up and return to Minn. in early May.

We belong to the Minn. Honey Producers Assn, the American Bee-Keeping Federation, the American Honey Producers Assn, and the SE Bee Keepers Assn. Along with our support of these organizations, we've also written letters to let our Rep. and Senator know the problems we're confronting.

We've sold our honey crop on the open market up until 3 years ago when we had a buyer at a marketable price. Since the increasing amount of imported honey is squelching the market for us we rely on the CCC Honey Loan Program. We will be in trouble if we loose this program as we cannot produce and compete with the import prices. We rely on the CCC on account of the unfair imports.

I support any effort you can make to control the import quota. We cannot afford to compete in such a market. We appreciate your time in considering our situation.

Sincerely,

BOB BEHLKE.

HENNING, MN, *June 20, 1985.*

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: I am writing to request action on H.R. 2382 regarding the Beekeeper Preservation Act of 1985.

With todays' costs, we beekeepers cannot compete with cheap foreign import honey that can be bought for from 32¢ to 40¢ a pound duty paid; in fact, we cannot survive in this price situation.

Older beekeepers, with a debt free business, could possibly endure until retirement, but who would they sell to ????—their assets would be worthless.

Young beekeepers, just starting out, could not keep in business with this price situation.

Bees that produce imported honey do not pollinate any crop in this country!

About ⅓ of the food we eat needs bee to pollinate the crop, either directly or indirectly.

Therefore, I would support a mandatory Section 22 investigation by the International Trade Commission to determine the impact of honey imports on the domestic market—and to recommend appropriate actions.

Very truly yours,

J. DWIGHT HULL.

STATEMENT OF CHARLES W. HURD, KASOTA, MN

I hold the following organizational positions in the industry: president of Southern Minnesota Beekeepers Association; member of board of directors, American Honey Producers Association; member of Honey Promotion Committee, Minnesota Honey Producers Association; member of Century Club of the American Beekeeping Federation.

I am a producer of bulk honey primarily for sale on the wholesale level. My total income is derived from beekeeping.

Eight years ago I began beekeeping to produce honey for sale. Prior to that I worked for a beekeeper for six years.

I began my business with five thousand dollars and some small knowledge of the industry. With these tools I have been able to build a thriving business that was worth nearly a hundred thousand dollars prior to the heavy influx of imported honey.

I have been living the American dream. That dream is to start a small business, work hard and make it work for me.

Recently this dream has turned into a nightmare due to large imports of honey. I am no longer able to find markets for my product. Other beekeepers have the same problem and now my operation has dropped in value, making it impossible for me to even get out of the business without a large financial loss.

These large imports have caused the price of honey to drop to a low level. I am currently forced to turn my honey over to the government at the support price.

I believe tariffs should be imposed to cut back the flow of imported honey. I believe that an average of the amount of honey imported yearly between 1970 and 1980 should be used to determine a target amount of imported honey. Tariffs and quotas should be used to keep the amount of imported honey close to the targeted amount.

Until 1980, when the amount of imported honey began to increase dramatically, I ran a thriving business. Since 1980 I have had difficulty selling honey on the open market and the value of my operation has dropped drastically.

I recommend some control on the amount of imported honey to stop the harm that it is causing to our industry.

INDIANA STATE BEEKEEPERS ASSOCIATION,
Indianapolis, IN, June 13, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, House Ways and Means Committee, Longworth House Office Building, Washington, DC.

SIRS: As President of the Indiana State Beekeepers Association and Indiana's representative on the board of directors of both the American Honey Producers Association and the American Beekeeping Federation I welcome this opportunity to file a statement with the Subcommittee on trade of the House Ways and Means Committee. At present, Indiana beekeepers face no greater problems then those posed both directly and indirectly by the importation of honey.

Most of Indiana's beekeepers, whether operating 2 or 2000 colonies of bees, pack the honey that they produce for sale within our State. But Indiana grocery shelves are replete with honey that is packaged outside our State and produced outside our Country. Hoosier beekeepers are forced to compete with these large packers, who, through no fault of their own, have been squeezed into packing foreign honey. But it is impossible to compete head on with such honey that is imported at 32¢—45¢ per pound. Faced with such competition, many of our beekeepers either sell their honey to the government, or try to sell customers on the idea that buying "Local" honey is advantageous to the extent that they will pay a price that returns a reasonable profit to the beekeeper. We try to educate consumers on the importance of honeybee pollination and the fact that bees in foreign countries don't pollinate U.S., let alone, Indiana crops.

I hear many complaints from beekeepers up and down our State that government honey giveaways to the "needy" are also hurting sales—and I know that's true of my business. But the Honey Loan Program is not at fault—imports are the underlying cause—the chief reason that the Loan Program is in trouble.

Action to curb honey imports is long overdue. A congressional mandate for a Section 22 investigation following a recommendation of the House Ways and Means Committee would be the first step in the right direction. If the I.T.C. determines that imports are disrupting our CCC program, then the Executive branch should immediately impose tariffs and/or quotas. In addition, world honey trade practices should be reviewed by the U.S. Trade Representative and negotiations should proceed with our trading partners to work out an equitable, long term solution.

Indiana beekeepers recognize the responsibility of our industry to help itself. That's why our State Beekeepers Association voted last fall to support the self-help "Honey Promotion, Research and Consumer Information Act". But we also recognize that our industry cannot alone overcome our problems with imported honey, which have arisen largely because of government's unwillingness to act.

Respectfully submitted.

ALAN L. KING, *President.*

IOWA DEPARTMENT OF AGRICULTURE
Des Moines, IA, June 4, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, House Ways and Means Committee, Longworth House Office Building, Washington, DC.

The surplus of honey in this country (created by imports) has reduced local honey sales by 50 percent. Reduction of sales results in reduction of honeybee colonies and reduced pollination of important agriculture crops. Beekeepers in Iowa are faced with the same situation, which continues to worsen.

Reduction "quotas" on imports would result in getting the United States Government out of the honey business. Ten percent of imports on top of the 200 million pounds produced annually could be justified. Fifty to one hundred percent imports of our own production will virtually destroy the industry within the United States.

Respectfully submitted.

GLEN L. STANLEY, *State Apiarist.*

NILES, IL, *June 22, 1985.*

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIR: We support the call of a Section 22 investigation by the International Trade Commission to determine the impact of honey imports on the domestic market.

Domestic beekeepers do not produce enough honey in our country for our own consumption even though we consume less per person than the rest of the world. Yet, domestic beekeepers are not able to sell their honey, but must place it in the Honey Loan Program.

In order to eliminate surpluses, a very easy method would be to tax the cause of the surplus, imported honey. This revenue could be used to support the Honey Loan Program.

A "Market User's Tax" could be instituted on foreign imports in lieu of their not paying domestic taxes, such as federal and state income taxes. A "Market User's Tax" will increase revenue into the U.S. Treasury.

Simply, stated, the tax could be ascertained by the number of pounds of honey imported into our country divided into the entire cost of the Honey Loan Program, for a given year, to be the tax on the following year's imports. When thee is less honey in the Honey Loan Program, the tax could be reduced as indicated by the the chart below:

Hypothetical examples: How to minimize the Government cost of the Honey Loan Program and regulate the excessive loan forfeitures. (The cause of the surplus, imported honey, will pay most of the cost of the program.)

	1986	1987	1988	1989	1990
Honey Loan Program cost	$5,000,000	$2,000,000	$500,000	$500,000	$700,000
Divided by pounds of imports	20,000,000	10,000,000	5,000,000	10,000,000	12,000,000
Import tax per pound (cents)	25	20	10	5	6

A variable per pound tax would cause imports to slow and there would be less honey in the Honey Loan Program. By making the cause of the surplus, excessive amounts of imported honey, pay for this cost, we would ensure that the government would not have expense. American business would profit and we could still import the required needed honey, as some imported honey will always be necessary, without harming the beekeeping industry in our own country and placing a financial burden upon the taxpayer.

Americans are facing ever-increasing deficits in our government. The trade policies of taxing citizens and domestic businesses to support imports are showing diminishing returns and further increasing our problems.

Since the beekeeping industry itself generates many jobs, and also generates business in other industries by pollination of crops, the current administrations's policy of allowing the dumping of foreign honey on our markets will eventually eliminate domestic beekeeping, ruin our farmlands, and harm our future ability to produce food for ourselves.

The concept of so-called "free trade" is in conflict with fair trade. Fair trade is where we can trade with each other without harming each other. Proof of the harm is the proposal to reduce or eliminate the Honey Support Program because of the high cost to the Federal deficit.

As Americans we expect our government to keep our country strong and not support foreign business interest at the expense of any American business or its taxpayers. We can do this if we consider and pass legislation as above.

Yours truly,

CARL AND JOAN JOHNSON.

STATEMENT OF BERNA JOHNSTON, JOHNSTON HONEY FARMS, SOCORRO, NM

Mr. Chairman, Members of the subcommittee: Thanks for giving us an opportunity to discuss the need for passage of the Beekeeper Preservation Act of 1985, H.R. 2382.

I am Berna Johnston. My family owns and operates a 200 colony bee outfit in Central New Mexico. Our annual production has averaged about 200,000 pounds of salt cedar honey. We do not rent any bees for pollination purposes, mainly, because no crops needing this service is grown in our area. Until imports entered the picture, we had no dificulty disposing of our production. Since 1981 no market has been available. Consequently, we have had no choice but to deliver our total production to the Commodity Credit Corporation. A deplorable situation to say the least.

I have been deeply involved in industry affairs. I am a member of the American Honey Producers Association, the only nation-wide beekeeping organization in the country. Currently I am holding the office of Past President. Also, I have been an active member of the New Mexico Beekeepers Association.

On a number of occasions during the past 4 years I have asked the Secretary of Agriculture to recommend a Section 22 investigation of our industry's problems with imports. The U.S. Senate has twice asked for the investigation in a Sense of the Senate Resolution. To date the Secretary has ignored our pleas.

H.R. 2382 mandates an investigation—nothing else. The Administration's reluctance is puzzling. I have a strong feeling that a study will support our contention that imports is our main problem in addition to advising the Congress of details about the causes.

I am hopeful that the Subcommittee will give serious consideration to H.R. 2382 and report favorably.

LOVELL, WY, *June 12, 1985.*

HON. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

DEAR SIR: I would like to comment on Bill H.R. 2382 Beekeepers Preservation Act of 1985 and SR 1025 by Senate Pressler. These bills call for mandatory Section 22 investigation by the International Trade Commission to determine the impact of honey imports on the domestic market and to recommend appropriate actions.

I am employed as a beekeeper here in Wyoming and my job depends on there being a market for the honey that is produced here.

The bees are an essential part of the whole agriculture picture, failure of the beekeepers will affect not only many people employed by agriculture but consumers also. Imports may be cheaper right now but will not be so in the long run.

I would ask that the hearings be scheduled as soon as possible.

Sincerely,

DAVID JOLLEY.

KE-AN HONEY CO.,
Faith, SD, June 24, 1985.

MR. JOSEPH K. DOWLEY: My name is Keith Taylor. I operate 2500 colonies of bees in South Dakota. Currently I am President of the South Dakota Beekeepers Assn.

As a beekeeper, I have read with interest the reports that pertain to the Honey Price Support Program.

As a result I am writting this letter to thank you for your support, and efforts in maintaining a fair price for U.S. honey.

I have always believed in a competitive free market system and opposed government handouts in any form. Present trade practices however have severely limited that market and eliminated any freedom to compete with foreign producers.

The U.S. government's willingness to allow vast amounts of foreign honey into this country combined with the foreign government's refusal to allow U.S. honey to enter their market have created a surplus of honey that is raising havoc for our honey producers.

It is my belief that a gradual phasing out of the price support program combined with tighter restrictions of foreign import honey will ultimately be necessary.

However, until adequate trade agreements are established and enforced, the price supports will remain vital for the beekeeping industry.

Your efforts to maintain that support while working to remedy the problems involved with foreign trade will be greatly appreciated.

Again thanks for your work in the past and best of luck in your future endeavors.

Respectfully yours,

KEITH TAYLOR.

KERR'S HONEY & POLLINATION,
Amity, OR, June 17, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Ways and Means Committee, Longworth House Office Building, Washington, DC.

GENTLEMEN: I am the State of Oregon's representative for the American Honey Producers Assoc. and also a member of the Oregon State Beekeepers Association.

Thank you for the opportunity to voice my opinion about a problem that we are having here in Oregon. Here in Oregon our main problem within the beekeeping industry is imported honey, being imported at an unrealistically low price. It is having a devastating effect upon both the producer and any packer that wishes to pack only U.S. honey, of which there is only one left in Oregon. The smaller beekeepers that sell their honey at roadside fruit stands and smaller outlets are even now starting to have competition from imported honey from Import Packers that are running routes to pick up even this market. Imported honey has devastated our own Government Commodity Loan Program, which as you know was introduced in 1949 and worked very well until approximately 1980 when the U.S. was flooded by cheap imports. Granted part of this may have been caused by the high U.S. dollar but yet the beekeeping industry must buy trucks, fuel, equipment, and pay taxes, college tuition, and living expenses with that same U.S. dollar. It is unrealistic to think that our industry can make a living in the world market when foreign countries penalize my exported honey as much as 80% ad valorem entering into their country and in some cases totally prohibit any importation of honey into their countries. The government has said one way the beekeeper could offset the lower income from honey sales is to raise pollination prices to the farmer. Farmers are already beset by financial problems. Only about 5% of the bee colonies in the U.S. are used on paid pollination accounts and over half of those are used twice but yet I am sure you have heard of the 20 billion dollars that the beekeeping industry is responsible for producing in the agricultural industry. I am already having problems getting fees from the paid pollination that I do. Many of the checks are coming from banks rather than the farmers. The farms are in receivership. If honey prices keep going down it will drive more beekeepers into what pollination accounts are available, which will reduce pollination prices rather than increase them.

I have heard U.S. Government Economists say that the U.S. allows imports to protect the consumer from high prices. This cheap imported honey has not reduced the retail price of honey. It is at a near all time high.

The solution to our problem is either a higher tariff on imported honey that would bring it up to the U.S. market price or a restriction on imported honey each year until the U.S. domestic crop is sold.

Respectfully submitted.

DAVID A. KERR.

LANE COUNTY BEEKEEPERS ASSOCIATION,
Eugene, OR, June 23, 1985.

DEAR JOSEPH K. DOWLEY: I am a small beekeeper, having problems selling my honey in competition with the foreign honey on the local market. We have to abide with strict sanitation conditions and yet the foreign honey has unknown production conditions. As a representative of the Lane County Beekeepers Association, we would like to see the law about labeling the honey from the country of origin enforced.

Respectfully submitted.

JAMES SHERIDAN.

MOUNDS, OK, *June 6, 1985.*

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

The following people have submitted their names as supporters a Section 22 investigation of the USA Honey situation. We would like the International Trade Commission to determine the impact of foreign imports on the domestic market and to recommend appropriate action.

We have read Senator Pressler's SR 1025 and support it.

Thank you.

FLOYD E. LARIMORE
(and 37 others).

LUCKY W. HONEY,
Centerville, IA, June 22, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, House Ways and Means Committee, Longworth House Office Building, Washington, DC.

Our surplus of honey in this country is due to our country's import policies on honey. Imports have reduced local sales of honey by 50%. Reduction of sales means reduction of beekeepers and this results in less pollination of our food crops.

Reduction of imports by placing "quotas" on honey imports would, in my opinion, result in the U.S. Government getting out of the honey business. Ten percent of imports on top of what is produced in the U.S. could be tolerated.

Respectfully submitted.

ROBERT L. WELLS.

PLEASANT HILL, MO., *June 12, 1985.*

Hon. JOSEPH K. DOWLEY,
Chief Counsel, Ways and Means Subcommittee on Trade, Longworth House Office Building, Washington, DC.

DEAR SIRS: I am a board of director of the American Honey Producers Association and a member of the Missouri State Beekeepers Association.

I am a producer and packer of honey. I sell my honey to stores in and around the Kansas City area. I sell only honey that is produced in the United States.

My main problem is competing with cheap imported honey coming into the United States. It is very hard for local producers to compete with the imported honey and make a profit. Honey imports have increased dramatically in the last few years.

The government needs to put a higher tariff or duty on imports to help balance this out. It would be a good idea to put a limitation on honey imports. Then the domestic honey producers would not be forced to dispose of their honey through the Government Price Support Program.

The United States would be in an awful situation if the beekeeper wee forced out of business. Agriculture depends on the honey bee for pollination of crops, vegetables, fruits and wildlife. Eighty percent of pollination is done by the honey bee. Agriculture is in enough trouble as is.

Please give this your upmost attention. We need your support and help in this matter. Thank you.

Sincerely,

WALTER MATTHES.

MERRIMACK VALLEY APIARIES, INC.,
Billerica, MA, June 25, 1985.

To Whom It May Concern:

Merrimack Valley Apiaries operates 4,000 hives of bees for pollination in seven states on the eastern seaboard. Incorporated in 1956, and based primarily in New England and Florida, we are the largest carrier of Honeybees for contract pollination of fruit crops in the Northeast. Our income is roughly 75% contract pollination, and 25% honey production.

Any significant loss of revenue i.e. drastic changes in the Honey Loan Program without import relief will be catastrophic. In the current business climate, loss of honey revenue will cut our margin to the break-even point or below, due to low pollination fees which reflect the poor financial condition of the industries we service. As predicated, we are experiencing increased competition from honey producers already forced out of the honey business due to freeze conditions in Florida for the past several years. This has caused a depression in pollination pricing.

There have been several suggestions regarding limitations of imports. We favor one which would allow domestic honey to be sold to U.S. Packers at the highest possible price under world market pricing with the difference in prices being supported at the current USDA price level. The result of such a policy would limit the flood of imported honey and get the U.S. Government out the Honey Storage Business.

Much of U.S. Agriculture is in a very critical position these days. After 29 Years in the Bee Business we are no exception. We would appreciate your help and consideration in solving import problems.

Yours truly,

ANDREW T. CARD Jr., *Vice President.*

MID-WEST APIARIES,
Dallas, SD, June 4, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: I am a beekeeper from the state of South Dakota. I am a member of Sioux Honey Association, American Beekeeping Federation and the American Honey Producers Association.

Perhaps you are aware that 45% of all the honey consumed in 1984 was imported. The only way that we have been able to survive for the past several years was because of the Honey Price Support program.

Now that program is about to be eliminated! Who cares? The American people, but they don't realize it yet, and when they do it will be too late. With the program gone so will go most of the beekeepers. And with that one of the best sources for pollination that there is. It is possible to import honey, but not pollination . . . About 20 billion dollars worth of crops depend upon bees for pollination.

What's the answer? To start with we need a Section 22 investigation by the International Trade Commission. Imports are our problem and we need to get the U.S. Government out of the honey packing business and put U.S. honey back on the shelf.

Thank-You for your consideration in this matter.

Sincerely yours,

MARK EMDE, *Owner.*

MILLER'S HONEY FARMS, INC.
Blackfoot, ID, June 12, 1985.

Congressman SAM GIBBONS,
Chairman, Subcommittee on Trade,
U.S. House Committee on Ways and Means, Washington, DC.

DEAR CONGRESSMAN GIBBONS AND SUBCOMMITEE ON TRADE: My two sons an myself run a medium sized Honey Production business called Miller's Honey Farms, Inc., located at Blackfoot Idaho. We operate bees in California providing pollination to almonds and then move to Idaho and North Dakota for Alfalfa pollination and honey production. Our main income is from honey production. Pollination is a minor part of our income. Probably less than ten percent. We favor H.R. 2382. "The Beekeeper Preservation Act of 1985".

A number of factors have distorted world honey prices. Honey prices no longer relate to supply and demand or to cost of production. Instead an ever growing number of political factors have combined to make the domestic U.S. honey market a giant pump drawing in foreign honeys for reasons other than filling a market need.

The U.S. beekeeper and honey producer has six strikes against him before he harvests a pound of crop to sell.

1. The European common market has a 27% tax on U.S. produced honey.

2. Japan has a 33% tax on U.S. honey entering that nation. This prevents U.S. beekeepers from selling or exporting our crop into those two major markets.

3. Fiscal irresponsibility in the three major honey exporting nations; Mexico, Brazil and Argentina has devalued their money. They will do almost anything to trade their honey for U.S. dollars.

4. The Peoples Republic of China has aggressively subsidized and promoted honey production for the single purpose of securing U.S. dollars for trade. As you know, U.S.D.A. statistics show China's honey production has more than doubled in just the last few years.

5. The strong U.S. dollar is the primer to this great political dollar pump that is drowning the U.S. beekeeper in foreign honey.

6. Social Security contributions, Unemployment Insurance, Workman's Compensation, Sanitation and Environmental requirements are all expenses that the U.S. beekeeper must bear. None of which are required upon his foreign competitor.

The inovative and hard working U.S. beekeeper is a good competitor, but is simply politically overwhelmed by non-market factors which have no relation to supply and demand and are totally beyond the control of the American Beekeeper.

Your help is sincerely needed in implementing H.R. 2382.

Thank you for taking time to hear this testimony.

Yours truly,

NEIL J. MILLER, *President.*

STATEMENT OF STEPHEN M. KLEIN, PRESIDENT, MINNESOTA HONEY PRODUCERS ASSOCIATION, MARSHALL, MN

To expedite my statement I have outlined what I feel are the important points and have added short comments to several sections.

I. PRESENT CONCERNS

A. What is my personal interest in this Act?

1. Our family has been in commercial beekeeping for over 45 years. We produce approximately 150,000–200,000 pounds of honey annually.

2. We have made every effort to market honey through the wholesale and retail system in this country. A wholesale market that will pay a reasonable price which reflects production costs simply no longer exists in this country due to lower priced imports. It has become very difficult to compete with bottled foreign honey in the retail market. The margins are so small it often seems it would be better and certainly easier to forfeit the entire crop to the Commodity Credit Corporation through a honey loan. We have resisted this course of action but in each of the last 4 years our loss in retail sales have been reflected in additional honey forfeited to the CCC.

B. What is Minnesota's interest in this Act?

1. Minnesota is consistently among the top five states in the nation for honey production. The large number of commercial beekeepers that produce this crop are adversely affected by substantial imports of honey.

2. Minnesota is also an important state in terms of total agricultural production. A valuable resource in this production is the pollination provided by honeybees. Policy decisions that would reduce the number of beekeepers and bees would have a dramatic adverse effect on the total agricultural production.

II. RELATION OF HONEY LOAN PROGRAM AND IMPORT RESTRICTIONS

A. Do loan rates of the Honey Loan Program reflect a reasonable value for honey?

1. In almost all cases the loan rates represent an honest and fair price in relation to production costs.

2. The current rates have not stimulated an increase in honey production. The annual production has remained stable over at least the past 20 years. The 1984 crop showed a decline in production from the previous year.

B. What will happen if the Honey Program is dropped and no Import Restrictions are implemented?

1. A substantial number (perhaps most) beekeepers would be forced out of business. The production costs would simply be equal to or greater than the value of honey produced.

2. The lack of bees would have a dramatic adverse effect on other agricultural products which are directly or indirectly affected by honeybee pollination.

C. What will happen if Import Restrictions are implemented?

1. Honey loan forfeitures to the Commodity Credit Corporation would drop substantially saving the government money.

2. American Honey would find its way to the consumer through regular market channels.

3. Many people including myself would still have a job.

III. MARKETING OF HONEY

A. Are beekeepers doing anything on their own to improve the situation?

1. This past fall the Honey, Research, Promotion and Consumer Act was passed and signed by President Reagan. It is designed to assess beekeepers in order to develop new marketing strategies for improved sales of American Honey.

B. Can this program make an impact on honey sales and produce larger honey consumption?

1. I think it can. One thing we all know is that it won't happen overnight. For now we need some support while we are developing this broader market base.

IV. RECOMMENDATIONS

A. I urge you to support an investigation by the International Trade Commission to study the effects of honey imports.

B. I urge you to support a continuation of the Honey Loan Program. With Import Restrictions and/or an improved market base the Loan Program will return to its intended purpose of providing loans rather than buying honey.

MITCHELL BROS. HONEY,
Missoula, MT, June 12, 1985.

To whom it may concern:

Our family Beekeeping business is in the 4th generation of beekeepers.

We have had a lot of ups and downs as an agriculture occupation does have over the years.

Imports and inflation have taken a deep toll of financial losses the past few years.

We support section 22 investigation and ask that hearings be scheduled as soon as possible.

We need your help and support now.

Sincerely;

RUSSELL T. MITCHELL.
NORMAN D. MITCHELL.
BILL MITCHELL.

MONTANA STATE BEEKEEPERS ASSOCIATION,
Wolf Point, MT, June 24, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Ways and Means Subcommittee on Trade, Longworth House Office Building, Washington, DC.

MR. DOWLEY: Our Montana State Beekeepers Association consists of beekeepers who operate approximately 80,000 colonies. This is about 75% of the total colonies in Montana. These members operate bees from one or two hives up to 5,000 hives. The majority of the bees in Montana are operated by members who have 500 or more hives. This means this is a full-time job for them not a part-time job or hobby. That is why they are concerned about the large amounts of honey being imported into this country with a very low duty placed on it.

Montana ranks in the low 40's for population but in honey production it is in the top 5 states. It produces as much as 10 million pounds a year. Beekeeping is an agricultural business that is very risky in Montana. The corp productions or an individual beekeeper can vary 1000% from year to year. Because of such drastic honey production fluctuation Montana Beekeepers need a stable market situation in the

United States. Montana consumes a portion of its honey but most of it is sold to packers in other states. Montana beekeepers over produce Montana consumption but the U.S. must import to fill domestic needs. This is not a bad situation. It is very similar to Florida with oranges or Washington with apples. They over-produce that states for the rest of the U.S. consumption.

The United States needs to import some honey to fill its domestic consumption. But as of 1981 when the support price rose above the market price the imports started exceeding the limits of the demand. At this time many packers quit buying domestic produced honey and filled their needs with cheap imported honey. If the U.S. over-produced honey and didn't need to import then we would have to work out our own problem. Supply and demand would set a U.S. market price similar to what we have at about 54¢ /lb. Because of the large imports the U.S. supply and demand is out of balance. This soon forces the U.S. honey producers to take a much lower world market price for their honey. They still, however, have to pay a U.S. market price for gasoline, equipment and supplies. A limit to imports and a duty to bring imports up to U.S. market price would solve part of this problem. The other half would be a revised support program. Not a totally dropped support program but one that makes a beekeeper try to get the best market price he can for his honey. This program would pay him a percentage up to the support price depending on what his market price is compared to the U.S. market price.

Sincerely,

JIM RODENBERG, *President.*

MOON SHINE TRADING CO.,
Winters, CA, July 9, 1985.

To whom it may concern:

We are honey packers and have been since 1979. We maintain membership in California State Beekeepers and the American Beekeeping Federation.

The topic of imported honey has long been a sore point among this country's agricultural network. It is an absurd situation that (approx) 100 million pounds of honey are imported into this country at the same time a like quantity produced by domestic beekeepers is purchased by the Federal Government. The irony of the situation is that honey of varying degrees of quality is reaching the public (largely unlabeled as an imported product, while generally higher quality domestically produced honey is stored under the CCC program.

Through my involvement in marketing honey, I have become aware that the public is becoming more and more disappointed with the quality of honey found in those infamous three pound cans—often labeled 'pure' and 'natural', but tasting more like used crankcase oil. This foreign honey is a detriment to our industry and entire agricultural/agricultural network. We must support the hard working American honeybee; she is responsible for the pollination of billions of dollars worth of crops; our dinnertable would look far different without her endeavors!

I encourge stemming the flow of imported honey, and encouraging the marketing of the domestic product.

Respectfully submitted.

ISHAI ZELDNER.

MARYSVILLE, OH, *June 24, 1985.*

JOSEPH K. DOWLEY
Chief Counsel, Ways and Means Subcommittee on Trade,
Longworth House Office Building, Washington, DC.

DEAR SIR: This letter is a statement concerning the hearing on HR 2382.

My name is Kenneth Moore, a Ohio Board member for the American Honey Producers. Our family operates 400 hives of bees. These are located in 2 counties of Ohio. Our main goal is to supply the community with domestic honey. However, we can not get any new markets. The customers that do buy honey from us, buy because they know the quality of honey that we produce. Most people buy honey from the local grocery because it is cheaper. For the last three years (during which there has been an increase in imports) we was forced (economically) to turn the honey over to the Commodity Credit Corporation because of the lack of markets. We can not compete with these lower prices of imported honey.

In the economic sense, beekeeping is called an EXTRNALITIE of the economic system. Externalitie being the bee that goes out and pollinates the crops (apples, beans, melons, cucumbers, etc.) and can not charge for this service because of no

record as to when it was done or amount of pollination done. Pollination is a needed service amounting to 19 billion dollars per year. Approximately 10% of the beekeepers are in the pollination service and do not get any payment for moving their bees in while the crop is blooming. With 90% of the beekeepers not getting direct payment for pollination, we must keep the price of honey up to pay for this service.

In order to maintain the price and increase our market the imports must stop. This can be accomplished through the increase of tariffs or the direct stoppage of honey coming into the U.S.

Sincerely,

KENNETH MOORE.

MANCHESTER, CT, *June 5, 1985.*

JOSEPH K. DOWLEY,
House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR SIR: I am the Treasurer of the Connecticut Beekeepers Association and have been a hobby beekeeper for the past 10 years.

There are many problems involved in Beekeeping—bee diseases pesticides, vandalism and adverse weather conditions. I average keeping about 10 hives of bees in my backyard and when it comes time to sell my honey, I find many people have the surplus honey given them at the cheese and butter distribution and the price that I can ask you and get, hardly pays for my equipment. It works out that I am a beekeeper for my own personal pleasure at a cost, but the only incentive is that the honey bee is very important for our food and flara and a necessity to maintain our environment.

Because of these problems, I do not wish to see honey imported to our country. If a hobby beekeeper has all these problems, they are many times compounded for the commercial beekeeper.

Respectfully submitted.

ISABELLE D. MUZIKEVIK.

NEBRASKA HONEY PRODUCERS ASSOCIATION,
Cozad, NE, June 21, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Ways and Means Subcommittee on Trade, Longworth House Office Building, Washington, DC.

MR. DOWLEY: Our association would like to file a statement regarding H.R. 2382 which would mandate a Section 22 investigation by the International Trade Commission on the effects of honey imports on domestic honey producers.

The Nebraska Honey Producers Association represents the commercial bee-keeping industry in the State of Nebraska.

A majority of the commercial beekeeping industry in the State of Nebraska relies solely on the production and sale of honey for their livelihood.

We have many beekeepers who migrate to the south to winter their bees and many beekeepers who over-winter in Nebraska.

Our marketing problem is that our domestic honey market is lower than the honey price support market. The honey price support market is now and has always been around 60% of parity. The honey price support market at 60% parity has always been a floor; but now, due to large amounts of foreign imports of honey, our honey price support is a ceiling market!

With a market at 60% of parity, 15 years ago we needed approximately 60 pounds of honey per colony to meet our cost of living, production costs and to service our debt. Today, with the same 60% of parity market, we need 90 pounds of honey per colony to realize the same end!

The US honey packers paid 58¢ per pound for domestically produced honey four years ago and were able to profit from it. Now, US honey packers can buy imported honey for as low as 33¢ per pound and the shelf price to consumers has not reflected this tremendous drop in the wholesale price. If anything, shelf prices have increased for the housewife!

Our recommendation is that foreign honey not be allowed to be imported into this country until our domestic crop is consumed.

We have enjoyed the price support program, not as a market for our honey, but as a means of keeping our market at least to the 60% of parity range.

With a quota on imports and a price support at 60% of parity, the domestic market would stabilize to a favorable level where producers could once again market their honey with packers.

The attached tables will help to illustrate the problems that Nebraska honey producers have faced because of imports.

Respectfully submitted.

HOWARD HALBGEWACHS, *President.*

IMPORTS, EXPORTS AND CCC TAKEOVER

THE HONEY LOAN PROGRAM

The price support for honey is permanent legislation estabilshed by the Agricultural Act of 1949, Title II, Section 201, which required that honey be supported at level between 60 and 90 percent of parity. Except for certain years the government has acquired very little honey, CCC acquired some honey during the first three years of the program, but the next 27 years proved the value of the program. During this time CCC acquired some honey in 10 of the 27 years—annual average 2.23 million (Table 4). NO HONEY WAS DELIVERED TO CCC DURING THE REMAINING 17 YEARS. However, beekeepers have used the loan feature continuously. Until imports created a problem in 1980 the program has been trouble free. Since 1980, the amount of honey placed under loan and the quantity forfeited to CCC has increased dramatically (Table 4). Acquisitions for 1981 (1980) crop was 6 million pounds; for 1982—38.7 millions pounds; for 1983—74.5 million pounds and for 1984—115 million pounds (Table 4). Takeover for 1985 is estimated to be 120 million pounds. This is approximately the same poundage being imported.

Figure 2 shows how the cost of the honey loan program mushroomed in 4 years form 0 to $90 millions. The cost of the program would have been zero if imports had been controlled.

Figure 2

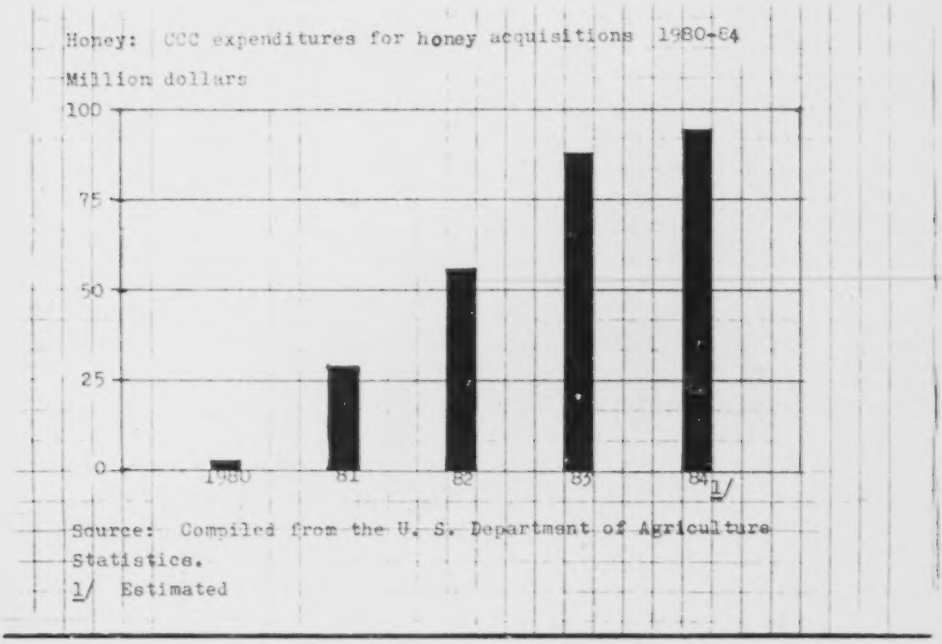


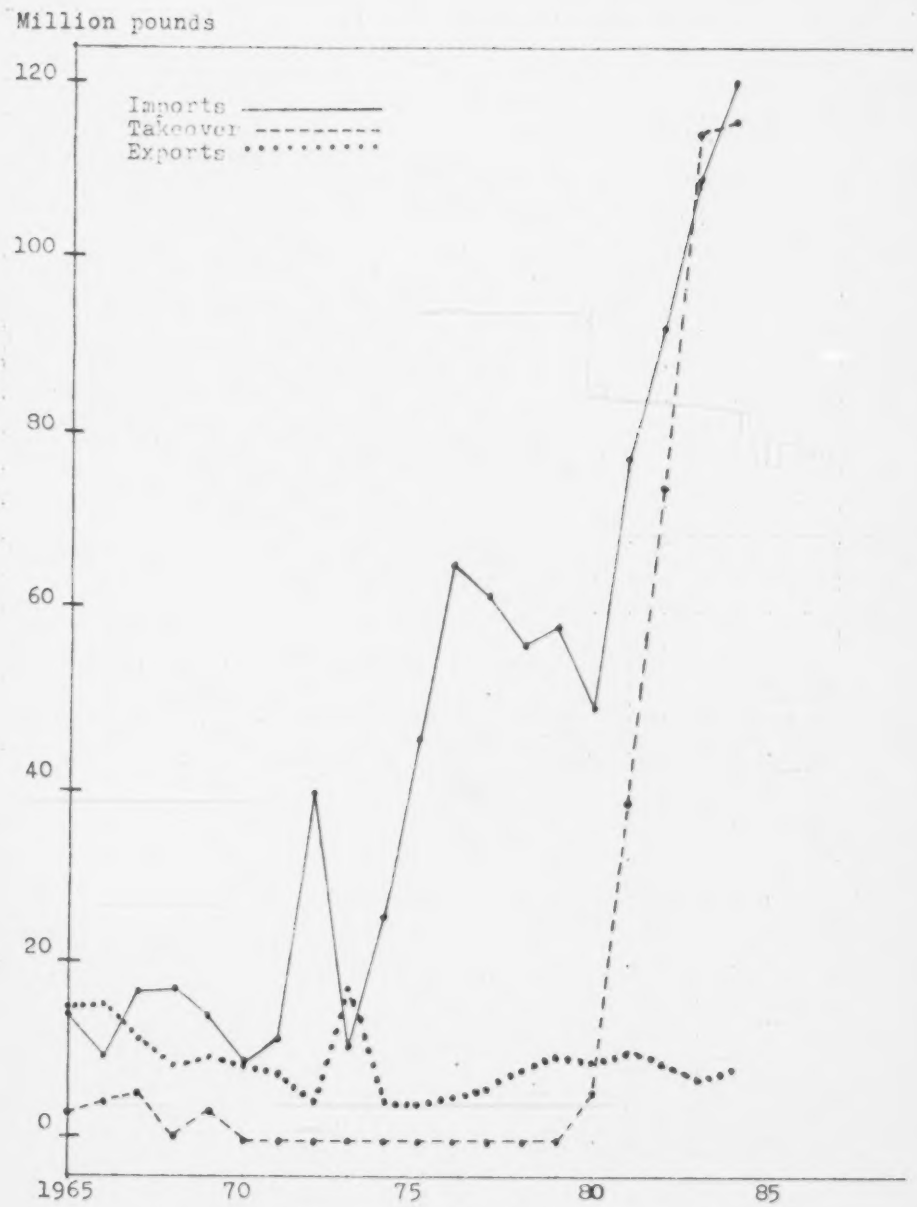
TABLE 4.—HONEY PRICE SUPPORT ACTIVITY, 1950–84, CROP YEARS

Crop year	National average price support rate [1] (cents per pound)	Parity price, adjusted (costs per pound)	Support as a percent of parity	Quantity placed under loan		Quantity acquired by CCC (million pounds)
				Amount (million pounds)	As a percent of production	
1950	9.0	15.0	60.0	([2])	0	7.4
1951	[3] 10.0	16.7	60.0	([2])	0	17.8
1952	11.4	16.3	70.0	9.3	3.4	7.0
1953	10.5	15.0	70.0	3.1	1.4	.5
1954	10.2	17.0	60.0	1.5	.7	0
1955	9.9	13.2	75.0	1.8	.7	0
1956	9.7	13.9	70.0	1.6	.7	0
1957	9.7	13.9	70.0	2.9	1.2	.1
1958	9.6	13.7	70.0	5.6	2.1	2.0
1959	8.3	13.8	60.0	1.3	.5	0
1960	8.6	14.3	60.0	1.1	.4	0
1961	11.2	14.9	75.0	4.2	1.5	1.1
1962	11.2	15.1	74.0	3.4	1.4	0
1963	11.2	16.7	67.0	3.2	1.2	0
1964	11.2	17.2	65.0	9.5	3.8	2.2
1965	11.2	17.8	63.0	17.3	7.2	3.3
1966	11.4	18.6	61.3	33.9	14.0	4.1
1967	12.5	19.5	64.0	31.0	14.4	5.4
1968	12.5	18.7	66.8	24.9	13.0	.1
1969	13.0	19.5	66.7	45.7	17.1	3.5
1970	13.0	20.4	63.7	40.6	18.3	([4])
1971	14.0	21.0	66.7	22.9	11.6	0
1972	14.0	22.3	62.8	19.8	9.2	0
1973	16.1	26.7	60.2	12.1	5.1	0
1974	20.6	34.3	60.0	13.9	7.4	0
1975	25.5	42.4	60.1	([5])	0	0
1976	29.4	49.0	60.0	([5])	0	0
1977	32.7	54.4	60.0	14.1	7.9	0
1978	36.8	61.3	60.0	40.5	17.5	0
1979	43.9	73.1	60.0	49.1	20.6	0
1980	50.3	83.9	60.0	41.1	20.6	6.0
1981	57.4	95.6	60.0	55.2	29.7	38.7
1982	60.4	100.7	60.0	88.4	[6] 38.7	74.5
1983	62.2	103.7	60.0	[7] 112.0	[6] 54.6	114.9
1984	65.8	109.7	60.0	([8])	([8])	([8])

[1] For extracted honey in 60-pound or larger container. [2] Direct packer purchase program. [3] On March 22, 1951, support for most flavors of honey was announced at 10 cents per pound with about a dozen flavors of limited domestic acceptability supported at 9 cents. On April 5, 1951, it was announced that the support price for honey of wide table acceptability would be increased from 10.0 to 10.1 cents per pound. [4] 5,900 pounds. [5] Loan program discontinued. [6] Estimated: production data were discontinued in 1981. [7] Estimated. [8] Date not available.

Source: Agricultural Stabilization and Conservation Service, USDA.

Figure 3. - Honey: Imports, Exports and CCC takeover, 1965 - 84.



Source: Compiled from official statistics of the U. S. Department of Agriculture.

STATE OF NEBRASKA,
Lincoln, NE, June 12, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: I would like to file the following statement regarding H.R. 2382, which would mandate a Section 32 investigation by the International Trade Commission of the affect of honey imports on domestic producers:

As State Apiarist for the Nebraska Department of Agriculture, I am responsible for making inspections and overseeing the clean-up of contagious diseases that affect honey bee colonies. I also do sanitation inspection of honey handling facilities and am involved in short courses and field days for honey producers. I have regular contact with honey producers throughout Nebraska and am well aware of the problems they face.

Four years ago, producers in Nebraska were able to market their product at a fair price with little or no forfeiture to the CCC. Today, few producers who do not belong to a honey marketing cooperative are able to find a buyer for their crop. Honey produced in the state has remained at a constant level during this time. Most honey buyers I have spoken to have indicated to me that they are packaging important honey which they can buy for 30-40% less than the U.S. support price rate.

I feel the solution to this problem is twofold. The House of Representatives has already approved enabling legislation for a honey checkoff fund. This industry funded promotion coupled with an appropriate import policy should put honey producers back on a sound foundation. The strong dollar, interest rates, and trading policy changes have imported the current honey surpluses. Current surpluses are not the result of overproduction. Without an appropriate trading policy, the checkoff promotion will use U.S. dollars to sell foreign honey.

I am enclosing two tables which illustrate the points I have made in my statement.

Respectfully submitted.

MARION D. ELLIS,
State Apiarist, Nebraska Department of Agriculture.

Enclosures.

Authorization for the honey loan program was a part of the 1949 Farm Bill. This legislation mandated the support for honey at the rate of 60 to 90 percent of parity. The program was relatively trouble-free until 1980 when heavy imports caused a number to forfeit their loans and deliver their honey to the Government. The problem worsens with each passing year. Figures on Commodity Credit Corporation acquisitions and honey imports follow:

[In millions of pounds]

Year	CCC aquisitions	imports
1970	0.1	8.9
1971	0.0	11.4
1972	0.0	39.0
1973	0.0	10.7
1974	0.0	24.6
1975	0.0	46.4
1976	0.0	66.5
1977	0.0	63.9
1978	0.0	56.0
1979	0.0	58.6
1980	6.0	49.0
1981	38.7	77.3
1982	76.0	92.0
1983	100.0	109.8

The Foreign Agriculture Service, USDA, reports the following tariffs imposed on imported honey from some honey trading countries:

Hong Kong	0
Canada	1.5 cents per pound
Australia	2% Ad valorem
Saudi Arabia	3% Ad valorem
Kauwait	3% Ad valorem
Malaysia	11 U.S. cents/lb.
Singapore	11 U.S. cents/lb.
European Community	27% Ad valorem
Argentina	28% Ad valorem
Hungary	30% Ad valorem
Japan	30% Ad valorem
Bahamas	32.5% Ad valorem
Turkey	50% Ad valorem
Romania	50% Ad valorem
Mexico	50% Ad valorem plus 2% export promotion surcharge plus 1.50% port improvement surcharge
Venezuela	60% Ad valorem plus 3.5% port surcharge if arriving by ship or 5.5% if arriving by air.
Red China	80% Ad valorem
Bulgaria	100% Ad valorem
Brazil	Prohibited

RANDALL, NM, *June 20, 1985.*

DEAR SIRS: I am writing in response to H.R. 2382 and S. 1025. I have been a commercial Beekeeper for four years. During that time I've done my best to sell my honey on the open market, however as more and more American Honey Packers switch to imported honey. I am caught in a tighter bind. The best price I can find this year is 46¢ per lb. for bulk honey. This price is below my production cost. Chinese and Mexican beekeepers seem to be able to lower their prices indefinitely. Most packers who even bother to talk to me are buying no American Honey.

My options are to sell below cost and loose money or sell to the Commodity Credit Corp. That seems far from a satisfactory solution. American producers can't produce enough to fill American (domestic) needs. We produce high quality honey, yet we cannot receive a fair price due to the glut of imports. Please consider my plight during your hearings.

Respectfully submitted.

GARY OBERTON.

OKLAHOMA STATE BEEKEEPING FEDERATION,
Mounds, OK, June 6, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIR: I wish to express my desire for the President to appoint a section 22 committee for the investigation of the Honey situation as it now stands in the U.S.A.

I understand that H.R. 2382 by Mr. Chappie (CA) and companion Bill S.R. 1025 has to do with the Beekeeper Preservation Act. of 1985.

I would like to list a few changes I would like to see made which in my mind would be fair to all concerned.

#1. If the C.C.C. Honey loan is continued then no State could receive from the Federal Government any amount of Honey greater than that state accepted on the Honey Loan program. (This would stop Honey from being transported so far and running transportation cost up)

#2. All Honey produced in one State to remain in that State and either sold, warehoused or put on loan in that State. (This would give the Federal Government a handle on the states that produced Honey and also the floral source that the Honey came from. Also it would stop a lot of Illegal Honey being transported across borders and sold as "Local" Honey.

#3. I believe that the U.S. Government should completely do away with the Honey Loan program, Tobacco and Land Bank situations. None of these items help feed our people, only make the Big man bigger and burden all Tax-payers.

#4. I have asked the question of new Beekeepers for a long time. (Because I was once asked.) Did the Honeybee come before the Apple? If not what pollinated the bloom of the apple tree that was God's forbidden fruit? It had to be pollinated to make it perfect. . . . We, or I for one would like to continue being a beekeeper and sell Local Honey at the Local level.

Thank you,

F. E. LARIMORE, *President.*

JACKSONVILLE, FL, *June 3, 1985.*

DEAR SIR OR MADAM: I am a member of the American Beekeeping Federation and the Florida Beekeeping Association.

I am interested in a mandatory Section 22 investigation by the International Trade Commission to determine the impact of honey imports on the domestic market and would appreciate hearings be scheduled as soon as possible.

Since an excessive amount of honey has been allowed to be imported into this country, beekeepers have not been able to sell their honey to honey packers or dealers.

I do not know what measures are taken to insure the consumer that foreign honey is clean. Our bees are inspected regularly for disease and our extraction and processing facilities are inspected for sanitary conditions.

We would like for the Government to continue the "Honey Loan Program" until such time as the glut on the honey market can be reduced by less importation of foreign honey. We are dependent entirely on the sale of honey for our income.

Sincerely,

MITCHELL PARKER.

SANTA PAULA, CA.

JOSEPH K. DOWLEY,
House Ways and Means Committee,
Longworth House Office Building, Washington, DC.

DEAR SIR: I am owner-operator of an eight hundred colony beekeeping enterprise. As such I provide for my family of six and a job for one employee. I serve as Vice President of the Ventura Co. Farm Bureau Apiary Advisory Committee.

My business depends on the income (profit) that I am able to generate by: (1) Honey Production and Sales (2) Pollination Service Fees.

I believe that I am benefitting fully from the pollination services I provide. My fee is as high as the market will bear and I provide a quality service. Further, I maintain contracts that provide crops and fees to smaller operators. There is little or no margin for increased income through pollination Services.

Every year my operation has produced yields of honey exceeding the local averages. Yet, we the beekeepers are not out producing the domestic market.

The flood of imported foreign honey at such low prices and such poor quality is destroying the United States market. To remain in business I have been forced to rely on C.C.C. loans (Tax Payers) to buy my honey. This is an unacceptable system of marketing.

As a Beekeeper in these United States of America my operational expenses and loan rates are dictated by the economics of this Nation. There is no way that I will be able to produce a profit if the price of domestic honey cannot hold a value comparable to other products and services of domestic origin.

I support the Beekeeper Preservation Act of 1985. It addresses the most vital issue effecting the future of beekeeping in the United States. The issue is, Will this Government protect this vital industry from foreign imports. The policies of this Country will help us sustain ourselves or they will completely undermine our efforts.

I suggest a fifteen cent p/lb. tariff. Further, all said tariff should be used to promote and educate the United States Market. This would stimulate market enough for both domestic and foreign honey.

Respectfully submitted.

H. MARTIN PETTIT.

Statement of Jim Ross, Minco, OK

I am Jim Ross, Oklahoma Director of the American Honey Producers, a nationwide organization of honey producers and/or beekeepers. We have members in 41 states. My office is in Minco, Oklahoma. I own and operate 1,200 colonies of bees located in the southwest corner of Oklahoma. This is a family size business dating back 50 years.

Beekeeping is carried on in most counties in Oklahoma. Conservative estimates indicate that Oklahoma beekeepers own 48,000 beehives, or colonies and produce 2,112,000 pounds of honey annually. The more than 1,000 Oklahoma owners are classified as hobbyists, sideliners or commercial. Average national production totals 200 million pounds annually.

OUR SUPPORT PROGRAM

Since 1949 our industry has had a price support program with a non-recourse feature and this has worked quite well until 1981 when foreign producerrs commenced heavy shipments to our low duty ports. Imports for this past year mainly from Mexico, Canada, Argentina, and Red China totaled 120 million pounds—more than 50% of our annual production.

Survival of our industry depends on the continuation of the honey loan program. The Administration proposal that the honey loan program be terminated will in short order bankrupt the commercial beekeepers of the U.S. and this will mean a shortage of honey bees for pollination. The original justification of the Honey Loan Program enacted by Congress was to insure an adequate number of honey bees for pollination of 90 or more domestic crops. Today research indicates over 19 billion dollars worth of agricultural crops are benefitted as a result of honey bee pollination.

There is also much research being done today to show the value of honey bee pollination to the wild life. The role bees play in the food chain of wild life is rather obvious. Many fur bearers are directly dependent on various fruits which are pollinated by bees. Many species depend on nuts and leaf buds or fruit bodies of plants that are bee pollinated. Many plants which provide protection would disappear without honey bee pollination, effecting numbers of quail, pheasant, etc., and so the chain reaction goes on. We can import honey, but we cannot import pollination.

Importation of cheap honey leaves the American beekeeper no market except the Commodity Credit Corporation. The "so-called" free trade policy of the Administration discriminates against our industry because of the unfair trade practices of our trading partners. For example, we charge 1 cent per pound tariff on honey while Japan and Western Europe charges 28 percent ad valorem.

In our own operations under the present conditions we have not had an increase in our wholesale prices in the last 5 years, yet we have lost 75% of our package business the past two years to foreign honey. This means that 75% of our production will be delivered to the Commodity Credit Corporation.

OUR RECOMMENDATIONS

Our main need is the continuation of the honey loan program and import protection.

We urge the committee to approve House Resolution 2382, The Beekeeper Preservation Act of 1985.

Statement of Darrel Johannes Rufer, Rufer's Apiaries, Delano, MN

I am presently owner and operator of a commercial honey producing operation in the state of Minnesota. In the past four crop years the price that I would have to accept on the open market is far below what I would need to operate and make a living. In two of those years I had to forfeit all of my honey which I had under C.C.C. loan as I could not find a wholesale buyer that would pay a price that would give me a necessary return. I believe this is caused by the cheap imports.

The C.C.C. honey take over has cut into my retail sales. With the situation now, the only people that are making money are the honey packers. Not only do they buy imported honey at a low price and sell it at a much higher profit but they turn around and bid on and pack all the C.C.C. honey that we producers couldn't sell them because they bought imported honey!

In closing I would like to say that the American Honey Producers Association represent my views and solution.

Respectfully submitted.

STATEMENT OF DONALD R. SCHMIDT, COMMERCIAL BEEKEEPER, WINNER, SD

SUMMARY

Bees are our Achilles heel.

With the exception of a tour of duty in the US Army, my total life has been dedicated to commercial beekeeping, in a family farm.

I am presently the SD Director to the American Beekeeping Federation. I am serving my second term as an Executive Committee member of this national organization. I have served in the past as the President of the S.D. Beekeepers Association. Also, as President of the Honey Industry Council of America.

The increased volume of imports of honey into the US in recent years has completely ruined the domestic honey market.

We can import honey, but we can not import pollination. Bees must be in this country to pollinate.

Since free pollination must be available to so many billions of dollars worth of crops, it is in the best interest of all Citizens of the US that the domestic beekeeper be allowed to continue beekeeping for honey production, since pollination is a result thereof. I am submitting a statement in support of Rep. Chappie's bill, H.R. 2382, asking for the International Trade Commission to study and update their previous investigation of the impact of increased imports of honey on the US Market.

National Security Depends upon a stable food production capability within the U.S.—which depends upon bees.

STATEMENT

My name is Donald R. Schmidt of Winner, South Dakota 57580. Telephone # 605-842-0350

I am presently the South Dakota Director to the American Beekeeping Federation. I am serving my second term as an Executive Committee member of this National Organization. I have served in the past as the President of the S.D. Beekeepers Association. Also, as President of the Honey Industry Council of America.

I am a Commercial beekeeper in a family business which was started by my Father with his first colony of bees in 1902. From 1958, when my father retired, until 1984, my two brothers and I operated as a partnership. In January 1984, my two brothers retired after devoting their lifetime to beekeeping. I am now trying to keep the family business going. The domestic honey market is being flooded by cheap imported honey. It is impossible to sell honey at a price which would cover cost of production, so the only avenue open to receive a fair price is through the honey loan and price support program.

The cost of the honey loan and price support program is a very good investment for the United States taxpayers because the return to the food chain is so large. All consumers benefit directly from the improved "quality" and "variety" of food available. About 20 billion dollars worth of specialty crops depend upon bees for pollination. Additionally, billions of dollars worth of habitat, pollinated by bees, benefit wildlife and the environment.

There is no over production of honey in the United States. Also, there is not an over production problem with the crops which need the bees. The consumer and/or taxpayer are the beneficiaries of a healthy beekeeping environment.

Most of the pollination performed by bees is done free of charge and is actually a by-product of honey production. This must remain so. This is possibly the only situation where the by-product is worth an estimated 150 times as much as the product. It is possible to import honey, but it is not possible to import pollination. Bees must be kept in this country to pollinate!

In 1976, the International Trade Commission, after conducting hearings throughout the U.S., found that increased imports of honey constitute a threat of serious injury to the domestic honey industry, thereby entitling it to import relief. But, this relief was not given because the President did not sign the order. Soon afterward, China started exporting honey to the United States. The "Threat became a Reality". Honey also comes in from Canada, Mexico, Argentina, Central America and Australia. Imports now total one-half of our total consumption.

The United States has only 1 cent per pound duty, which is about 2%. China has 80% duty, Japan 30%, Common Market 28%, Mexico 54%, Argentina 30%, Brazil a total ban . . . . This is a one way street. We can not continue on this basis.

Beekeeping is labor intensive. It is not possible for United States Beekeepers to compete directly with cheap labor markets. I respectfully request your support and the support of your committee in taking favorable action on Rep. Chappie's bill H.R.

2382 so the International Trade Commission can conduct Section 22 hearings on honey imports as soon as possible.

The industry is presently working to pass the Referendum on the honey promotion, research and information act. This act is a self help program based on contributions collected through a check-off plan on honey sales. If producers continue to work for passage of the referendum, hopefully, the first contributions can be collected from 1986 crop honey.

But, the industry, with the help of this check-off program and import restrictions will need time to improve the honey market. In the mean time, a continuation of the honey loan and price support is vitally needed for the duration of the new farm bill.

The above, being accomplished, will provide steps toward correcting our balance of payments!

National security depends upon stable food production capability within the U.S.—which depends upon bees for pollination. If we become dependent upon other countries for our food, we will have lost any power which we now have. Like OPEC with oil. "FPEC" would control our food supply.

Bees are our achilles heel.

STATEMENT OF HOWARD H. SCHMIDT, COMMERCIAL BEEKEEPER, WINNER, SD

STATEMENT

My name is Howard H. Schmidt, of 522 W. 8th St., Winner, South Dakota 57580.

I am the former President, for ten years, of the Mid-U.S. Honey Producers Marketing Assoc. Inc. representing producers of an eight state area of the upper Mid-west. I have had the privilege of serving on Government selected Advisory Committee to Wash. D.C. as a representative of Michigan, Ohio, and Indiana beekeepers. Later from the upper Mid-west representing the beekeepers in the Dakotas and surrounding area. I have served in the past as President of the Michigan Beekeepers Association for four terms in the fourties, and again for three terms in the fifties. Also, I have served as President of the South Dakota Beekeepers Association for several terms, and am presently serving on its advisory board. I have been in the Commercial Beekeeping business all of my life, having had my own bees at age seven, thus having over sixty years of beekeeping experience. Also, I was the Petitioner as president of the Mid-U.S. Marketing Association requesting a Hearing by The International Trade Commission on Honey Imports being 'Injurious' to the Beekeeping Industry, and therefore a "Serious Threat" toward "Pollination" of many crops here in these United States which we depend upon for our use, or for International Trade. As the records of the Hearings show, the Trade Commission voted in the Industry's favor, then recommending to the President of these United States their solution, which basically was ignored, when President Ford stated "the solution was against his basic agricultural policy." Had President Ford realized this was a "Special Breed of People" doing a "Highly skilled job for our country" he would not have so ignored the recommendation of the Trade Commission, and the Beekeeping business would not be in the sad state it is.

The effort to do something about the Honey Import situation was started shortly after 1968 by the Mid-U.S. Marketing Assoc. Inc., when I as President had a private meeting with Secretary of Agriculture, Mr. Clifford Hardin, Asst. Sec. Mr. Bernhard Lyng and their staff, to go over the then sad plight of the beekeeping industry and suggest solutions. A meeting with Ambassador Dent and Mid-U.S. officers ended with Mr. Dent stating. "The Beekeeping Industry is a 'National Security Factor', since the foods produced through 'Pollution' can be used in International Trade for things our country needs, such as oil."

We also met later with Ambassador Strauss as regarding the seriousness of the import problem and as it will eventually effect Pollination and production of food crops. Lack of Pollination is a direct result of huge Honey Imports. Since "Pollination" must come from within our own borders, "It cannot be imported." Beekeepers depend almost entirely upon production of honey for their livelihood, thus furnishing free pollination to the area, therefore, if imports destroy their incentive to remain in the business, loss of pollination will follow. Everything possible must be done to influence this hardy breed of individuals to stay on the job. Not too many individuals can operate a commercial bee business, as it is labor intensive and is a highly skilled occupation, not to even mention the bee stings the operator must stand each day. We as a country need these men badly, but the elements of nature, pesticides, bee diseases plus the threat of the "killer bee" have many bee operations

on the verge of calling it quits. The latest Bee Journals have more bees for sale than ever.

Needless to say I have become very disgusted and disappointed with our U.S. Government's attitude toward the Beekeeping Industry in recent years. Here is an industry that helps produce billions of dollars worth of crops for our country through "Pollination" while only reaping a hundred million to maintain the industry and themselves. What has happened to our government officials that they are so ignorant of certain important facts. Have we a breed of people in Wash. D.C. that don't care? If so, they will be the ruination of these United States within the very near future.

Let me relate for a moment what our U.S. Government thought of the Beekeeping Industry at the beginning of World War II. I was born the son of a commerical beekeeper, Mr. Oscar H. Schmidt, we worked with the bees as a family unit, as this was our only means of support. In 1939 my father bought out another commerical beekeeping unit in the Thumb area of Michigan. Since I was the oldest son and twenty years of age I was sent to manage the operation, some seventy miles from home. The war broke out two years later and all of us young lads were subject to being drafted for service. Being healthy and of the right age, I expected to go, however, when I was called to appear before the draft board they had specific instructions for me. You are a commerical beekeeper and our country needs you as a highly skilled apiarist, or beekeeper, therefore, you are ordered to stay on the job. Furthermore, for every four hundred colonies of bees you maintain we will defer another man to work for you, providing he stays on the job. Also, I was given a triple A-1 rating for any machinery I might need for the business. The order was, "Go, increase the business, we need the "pollination" in order to produce many of the foods for our soldiers abroad. Then I asked, "What caused this opinion?". I was told the Government had just conducted an experiment with DDT on one or more of the Pacific Atolls, where they sprayed off all the insects, just to find out what would happen. It was found that all plants, trees or flowers that needed pollination or cross-pollination, did not produce and the result was a dead island. Somehow, the importance of the balance of nature has been ignored by our Legislatures, we need to re-educate them fast, before it will be too late. As I write this statement millions of bees are being killed off by spray planes using deadly chemicals with abandon, in this very area. The same thing is taking place clear across our nation and you might say, nothing constructive is being done about it.

If it takes a new hearing before The International Trade Commission to get something done, then lets do it. We have wasted much too much time already since the last hearing. I therefore favor and support Rep. Chappie's Bill H.R. 2382 asking for such an investigation. However, much money and time could be saved by honoring the Investigation of 1976 and applying up to date solutions to the problem.

In my estimation two things Must Be Done at this time for the Bee Industry. By all means "Maintain the present Honey Loan Program, this is "Critical". Secondly, Place the proper AD-Valorem tax on Imported Honey, or its equivalent in whatever form to bring the imported price up to at least the present support price to the beekeeper. Imports have ruined the domestic honey market so completely that it is impossible to sell even a single truck load of honey at a high enough price to cover cost of production.

Before ending my statement may I re-iterate what I have insinuated. This is a "Unique" occupation that deserves "Special" attention, and perhaps even special laws, so that its economic structure remains sound and our country retains the tremendous advantage of "free pollination", as time goes by.

OXNARD, CA, *June 15, 1985.*

JOSEPH K. DOWLEY,
House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR SIR. My son and I make a living for ourselves and our families by pollinating crops and producing honey with the use of honey bees. In other words, we are beekeepers. I am a member of the Ventura County Beekeeper's Association, serve on the board of directors for the California State Beekeeper's Assoc., and serve on the Calif. Farm Bureau Apiary Advisory Committee at the county and state levels.

I support the "Beekeeper Preservation Act of 1985." Our honey is marketed by Sioux Honey Association. And because of a marketing agreement with the Sioux Co-op, we can not directly take part in the government loan program. Through good management Sioux has returned what I consider to be a fair price for our honey. I am proud to say that Sioux has not yielded to the temptation to take advantage of

the government program to any large degree, at least so far, Instead they have strived to hold a position in the competitive market place. However, with cheap imported honey on one hand and the government give-away honey on the other the competition is beginning to take its toll. Our net honey returns have been straight-lined for the past three crop years and we are taking a 10 percent reduction for our '84' crop. Sioux management can see no improvement and only further declines in the immediate future. The predictions are bleak with honey prices falling to the mid 30 cent range. We could dump our honey in the government "loan" program for now, but this would be a short lived solution because that program is due to be dropped or changed drastically if it is to remain viable at all. Meanwhile, there is a stock pile of several million pounds of government honey in the pipe line. Even if the "loan" program were closed out today, it is estimated that it will take 2-3 years to clear the lines of the give-away honey.

Of course as a keekeeper I do get part of my income from crop pollination fees. But, with honey price returns dropping below production cost there will be hoards of bees available to compete in the paying pollination market. This will, undoubtedly, effect pollination fees. Competition is already tough in this field. Nation-wide the majority of beekeepers are honey producers. Pollination is a free, but necessary, by-product that passes on to its benefactors as the air we breath is free to us all. Only a few crops are being grown with the realization that "paid-pollination" is economical. Imagine trying to tell someone that they are going to have to pay for the air they breathe. Pollination fees will drop by who knows how much, but I'll guess at least by 50 percent until most of us go broke.

The scenerio that I see is this: 35 cent honey (I now get $.55/lb), $10/hive pollination fees (I now get $20), and cost of operation will remain constant (we all know that to be a dream). Based on my operation's past 5 year average production of 60 pounds/hive and two pollinations per year this would yield $41/hive gross. Last year my cost to operate was $59.33/hive. This scenerio results in a loss figure of $18.33/hive. Instead of increasing employment for my one part time employee, as hoped for, he, my son, & I will all be unemployed.

I am proud to say that we beekeepers are not standing back to see what happens. This can be evidenced by the "Honey Research program which will be funded by the honey industry. We can thank the tireless efforts of our industry's leaders for this. The hope is to increase per capita consumption from one lb. to 2 lbs. There by doubling the market which should leave room for us and our world neighbor producers.

Yes, I feel that we, as U.S. beekeepers are facing unfair competition and we need the government to give us a break while it cleans out its stocks. We need time to regain the markets that were lost to foreign suppliers. We need time for the U.S. honey industry's plan to have its effect. Therefore, I recommend that "The Beekeeper's Preservation Act of 1985" be implemented immediatly for a period of time (at least three years) to allow for stabilization of the domestic market place.

Respectfully submitted.

DONOVAN R. SCHRAM.

SHEARMAN APIARIES,
Wimauma, FL, June 14, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC

DEAR MR. DOWLEY: I am a commercial honey producer, past president of the Florida State Beekeepers Association, currently on the board of directors of the American Beekeeping Federation, and also currently chairman of the Florida Farm Bureau Honey Association Committee.

I would like to take this opportunity to urge support for the "Beekeeper Preservation Act of 1985" (H.R. 2382), introduced by Representative Chappie of California.

The beekeeping industry has many problems at this time, and one of the foremost is the inability of producers to market their honey at a profit. This is caused by the unrestricted importation of honey. Not only do domestic producers have to compete with wages of societies with a much lower standard of living, but in most cases the competition is with foreign government subsidized honey.

This is a classic case for a Section 22 investigation. Without a doubt the cheap imported honey is directly responsible for the U.S. Government having to take over so much domestic honey which was put under loan, thus rendering the loan program unworkable, and causing great expense to the government.

Beekeepers do not like to sell to the government, but have no choice in most cases, because they cannot compete with imported honey that comes into the country at prices below the cost of domestic production.

My personal recommendations to solve the industry's marketing problems would be to: (1) Impose tariffs and or quotas on imported honey. (2) Reduce the support price of honey to the 60 cent range for the best honey. (3) Go forward with the honey production and research program.

Much more could be said, but in the interest of brevity, I will close with this.

If I can be of any help in any way, please do not hestitate to call on me.

Respectfully submitted,

LLOYD B. (BILL) SHEARMAN, JR.

STATEMENT OF GARY L. EVANS, SIOUX HONEY ASSOCIATION, SIOUX CITY, IA

The Sioux Honey Association appreciates the opportunity to discuss its views concerning H.R. 2382, the Beekeeper Preservation Act of 1985, and requests that hearings on the legislation be scheduled as soon as possible.

The Sioux Honey Association is a honey marketing cooperative with 693 members in 28 states. Each member of the association is obligated to deliver his product to the association by virtue of a marketing agreement with the association. Nearly half of the commercially (wholesale) sold U.S. honey is marketed by producer-owned cooperative marketing associations, such as Sioux Honey Association, which is one of the largest honey marketing cooperatives in the United States. Honey also enters the market by direct sale to the consumer or to retail outlets.

BACKGROUND

In 1976, the honey industry petitioned the U.S. International Trade Commission (ITC) for relief from imports. On June 29, 1976, the ITC determined that "honey, provided for in Item 155.70 of the Tariff Schedules of the United States, was being imported into the United States in such increased quantities as to be a substantial cause of serious injuries, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article." Based on that determination, the Commission recommneded several steps, including a tariff rate quota and other rates of duty, to prevent the threatened injury. However, for policy reasons unrelated to the plight of the domestic honey industry, the President decided it was against the Nation's economic interest to impose import restrictions on honey.

Under the 1976 ITC recommendation, it was determined that the domestic honey industry was under serious threat of injury if imports continued to grow. Since 1976, imports of honey into the United States have dramatically continued to flood our markets, driving forfeiture to the Commodity Credit Corporation (CCC) to an all-time high.

Under the Tariff and Trade Act of 1984, the President received a "sense of the Senate" recommendation that called for an ITC investigation of honey imports, under Section 22 of the Agricultural Adjustment Act. Again, our industry's plea for assistance was ignored by the Administration.

During the present and ongoing debate regarding the 1985 Farm Bill, the Administration has proposed to eliminate support of the Honey Loan Program, allegedly to save $70 to $80 million of taxpayers' money. If the U.S. government had reacted positively to the ITC's recommendations in 1976, we believe the Honey Loan Program would not be in the position in which it now exists. It was not until the late 1970's that the Honey Loan Program began to cost taxpayers money. We believe restriction on imports would stabilize our domestic market and would bring the Honey Loan Program back to a "zero cost" status.

IMPORTS

Americans consume approximately 250 million pounds of honey per year. The domestic honey industry produces between 190 to 200 million pounds of honey per year. Therefore, imports have traditionally filled the gap between domestic consumption and domestic production. The largest sources of honey imports into the United States include Mexico, the Peoples Republic of China, Argentina, Canada and Australia. In 1976, the United States imported 66.4 million pounds of honey. Since that time, imports have dramatically increased to more than 100 million pounds per year—over 50 percent of annual U.S. production. Since 1980, imported honey has increased from 22 percent of domestic use to 40 percent of the domestic

market, at the expense of domestic honey producers. While wholesale honey prices rose in the early 1970's, they tapered off beginning in 1974–75, as a result of low international prices competing in the U.S. market, and have decreased from 1980 to the present, as was predicted by the 1976 ITC investigation.

As indicated previously, in 1976, the domestic honey producing industry sought relief from imports. The ITC favorably recommended limiting imports to protect and prevent damage to the honey industry. The Administration did nothing. Again, in 1984, the Congress recommended an Administration response, however, we have received no such response. The last 10 years have brought about increasingly high imports, low international honey prices, which drive down domestic honey prices, and growing government stocks of honey under the Honey Loan Program. There are now approximately 118 million pounds of honey under the government loan program—more than likely all of it will end up in the CCC. The result is a U.S. government that distributes approximately 70 to 80 million pounds of free honey under domestic food programs. Our cooperative is thus forced to compete with not only cheap imports, but domestic competition from the federal government.

CONCLUSION

We are pleased to stand up and support Congress' most recent action on behalf of the domestic honey industry. Senator Pressler, on April 29, 1985, introduced S. 1028, the Beekeeper Preservation Act of 1985. One week later, on May 7, 1985, Congressman Chappie introduced the identical companion legislation, H.R. 2382. This legislation would require the ITC to initiate a Section 22 investigation of honey imports and their impact on the domestic price support program. Both pieces of legislation are supported by members from both sides of the aisle. This legislative initiative is vital to the survival of the domestic honey industry.

If action is not quickly taken, not only will the domestic honey industry be subject to potential elimination by foreign imports, but many other U.S. produced crops will be endangered because of their dependence on honeybee pollination. Honeybees are necessary for pollination in seed, fruit, and vegetable crops. Many of our American exported crops depend on a steady supply of honeybees for pollination. Eighty percent of agricultural crops are pollinated by honeybees in America.

Under the Beekeeper Preservation Act of 1985, the ITC would be directed to initiate an investigation, and report to the President, in accordance with Section 22 of the Agricultural Adjustment Act, "on the effects of honey imports on any program or operation referred to in Subsection (a) of such Section and on the amount of products processed in the United States from honey. If, on the basis of such investigation, the Commission recommends to the President in the report required under Subsection (a) that fees or limitations be imposed on the importation of honey, no later than 60 days after the date of the issuance of such report, the President shall by proclamation: (1) impose fees or limitations on honey imports in accordance with such action; or (2) deny the existence of the facts justifying such fees or limitations."

We firmly believe that the present conditions of trade and competition in the U.S. honey market provide a sound factual basis for relief under Section 22 of the Agricultural Adjustment Act. If the ITC conducts an investigation of the domestic honey industry and finds that the statutory criteria for relief has been satisfied, the President will be hard pressed to deny relief to the industry.

In conclusion, the Sioux Honey Association strongly supports the scheduling of hearings to review The Beekeeper Preservation Act of 1985 as soon as possible. The enactment of this legislation will undoubtedly save the domestic honey industry from certain devastation.

McMINNVILLE, OR, *June 8, 1985.*

JOSEPH K. DOWLEY,
House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR SIR: I am writing in regard to H.R. 2382 and S. 1025. As an U.S. honey producer, I am very concerned by the lack of support for the bee industry in the United States. Because of the value of the U.S. dollar, honey is being imported in ever increasing amounts. This trend creates a shrinking market for domestically produced honey. Most of the imported honey is coming from countries that are subsidizing producers and inhibiting importation across their borders with high duties. They are supporting and protecting their bee industries because they realize the importance of adequate pollination to a viable agricultural program.

It's time the United States creates a situation whereby a hard-working individual can have a reasonable chance of making a living. Right now, the best opportunity to do this is by supporting these bills and protecting our domestic producers. This will, in turn, increase all other agricultural production by insuring an adequate pollination force.

Respectfully,

GERALD ALLEN SMITH.

YUMA, AZ, *June 11, 1985.*

JOSEPH K. DOWLEY,
Chief Counsel, Ways and Means Subcommittee on Trade, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: My name is James R. Smith of 5620 West 8th Street, Yuma, Arizona 85364. Phone (602) 783-7289.

I am a native of Arizona, I was born and raised in farming and beekeeping operations. I have been active in farming and beekeeping for 37 years. I am now operating around 12,000 colonies of bees in Arizona. I also farm 380 acres of land in the Yuma, Arizona area, where my home is located.

I have acted as a Director for Sioux Honey Association and Pacific Southwest Seed and Grain Co-op. I am a member of Calcot Cotton Inc. I am presently a board member of Yuco Gin Co-op Inc. and Yuma County Farm Bureau. I have also acted as an alternate member of the Yuma County Community Committee in ASCS and have participated in Soil Conservation Programs and ASCS Programs thru out the years.

I am a member of American Honey Producers Association Inc., American Beekeeping Federation and the Arizona Beekeepers Association and have served in various positions in each of these.

The Honey Loan Program is essential to continuation of the beekeeping industry in Arizona as well as the remainder of the country. The beekeeping industry is needed to supply an adequate amount of good honey and is essential in crop and seed pollination in the farming industry and also essential environmentally in our country. The reason for the amount of honey being put under the loan program is a direct result of subsidized honey imports from countries such as Mexico, Red China, Brazil and Argentina flooding the market, taking away sales from American producers and bringing prices down. These imports have more than doubled just from 1980 to 1984.

I would like you to file this statement on my behalf and thank you for your consideration in this matter.

Yours truly,

JAMES R. SMITH.

[Telegram]

SOUTH DAKOTA BEEKEEPERS ASSOCIATION,
Martin, SD, June 26, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

On this Date of June 26, 1985 the Advisory Council of the South Dakota Beekeepers Association met in Pierra, South Dakota and unanimously adopted a resolution supporting HR2382, it is imperative that we have a section 22 investigation for the survival of the Beekeeping Industry.

GARY SCHMIDT,
Secretary-Treasurer.

STRACHAN APIARIES, INC.,
Yuba City, CA, June 25, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington DC.

DEAR MR. DOWLEY: We are in support of Congressman Chappie's bill HR2382 "Beekeeper Preservation Act of 1985". Also Senator Pressler's bill SR1015. They call

for a mandatory Section 22 investigation by the International Trade Commission to determine the impact of honey imports on the domestic market.

Section 22 is urgently needed to protect another of agriculture's important industries. The continued import of honey will severely injure our industry. We would like to see action on this bill and ask that hearings be scheduled as soon as possible.

Sincerely,

DON STRACHAN, *President.*

STATEMENT OF E.W. STRICKLER, JR., PASCAGOULA, MS

Mr. Chairman and members of the subcommittee, I am a commercial beekeeper and in the last few years foreign imports have caused our own domestic honey markets to be stifled to the point of my having to become dependent on the government's honey loan program.

I do not want to be a burden to the American taxpayer; however, with little or no import duties or quotas, I have no choice.

I urge the passing of the Beekeeper's Preservation Act (H.R. 2382).

Please help us.

STATEMENT OF ROBERT E. STRICKLER, PASCAGOULA, MS

Mr. Chairman and members of the subcommittee, I am an American beekeeper—a second generation commercial honey producer in a full time capacity for the past 25 years. Through hard work and diligent management my 1500 colony operation has provided for me a respectable middle income living. My salable products, honey and beeswax, have over the years been sold by bulk in 55 gallon drums by the pound to the highest bidding domestic honey buyer or packer. Occasionally a shipment would be exported to foreign markets. Prices were always very competitive but fair on this domestic market. As a member and president, or vice president, of the Gulf Coast Beekeepers Assn. and Mississippi director of the American Honey Producers Assn. I have, along with the other members of these organizations, striven to enhance our image, promote our products, and tell our story to all who will listen.

As of the last few years we have met with obstacles which are becoming increasingly difficult to deal with on traditional terms. These obstacles arise mostly in the marketing of honey and are present mainly because of government policy and it's insensitivity to our problems or it's failure to take action in areas which could correct the problems. Had it not been for the loan program, which honey producers have been forced to use the last few years, many commercial operations would be out of business. Our market has dried up. The honey buyers have all gone to foreign imported honey which they are getting at a price which is lower than our cost of production. And believe me, we have done all we know to do to cut the cost of production. Honey has been allowed to go on the world market which is in no way fair to the American producer. The absence of quotas and extremely low tariffs on honey allowed by our trade policies have made the American market extremely lucrative for cheap foreign imports. There is no way that we can compete with the peasants of Mexico and Red China and maintain even a fraction of the standard of living we in this good country enjoy.

The honey loan program would cost the government little or nothing if only common sense and fair trade practices were allowed to mandate our trade policies concerning honey. If present trade policies continue as they are and if the honey loan program is phased out, the American honey industry is bankrupt! I sincerely recommend the enactment of H.R. 2382 as a means of relief to our industry. Tariffs and quotas of significance must be enacted if we are to save our beekeeping industry which is so necessary in at least a secondary capacity—namely the pollination of many food crops enjoyed by the entire population of this country. To save our bees is to save our food at continued reasonable prices.

I have spoken—mark my word.

STATEMENT OF JERRY STROOPE, STROOPE BEE & HONEY CO., ALVIN, TX

Mr. Chairman, members of the subcommittee, my name is Jerry Stroope, a partner of Stroope Bee & Honey Company, a family business that has been operating bees for over 40 years. We are an active member of the American Honey Producers Association and operate approximately 2,200 colonies of bees. Our main source of

income is from the sale of honey. Our secondary sources of income is from the sale of wax and bees.

Due to the increase of imported honey, we have not been able to sell our honey to the honey packers. The Commodity Credit Corporation set their loan rate at 60% of parity. That is 40% less than what the government says we should sell our honey for. If we compete with imports at half the support rate, we would be selling our product at 70% less of parity which is not enough to stay in business.

To keep the beekeeper in business and to prevent The Honey Loan Program from taking over any more honey, we recommend the support of the Beekeeper Preservation Act of 1985, H.R. 2382.

STATEMENT OF RICK KRUEGER, PRESIDENT, VALLEY HONEY ASSOCIATION

Valley Honey Association was organized in 1946 by a few beekeepers . . . it is wholly owned and operated under the auspices of its members who are primarily based in the State of California and represent approximately 30% of the California commercial beekeepers.

The honey industry differs in many aspects from other industries . . . its problems are unique and must be dealt with in accordance with its specific requirements . . . each problem must be dealt with individually . . . one at a time . . . and on a gradual basis so as not to create complete havoc in any of the very diverse area of our industry.

The honey industry is a vital part of our country's welfare and economy. Its close relationship to the farming industry with its pollination services insures a high yield and healthier crops for the farmers, and, since California is the number one agriculture State in our country, the bees play an important role in food production.

U.S. honey production has remained fairly stable for the past 15 years; however, world-wide honey production has doubled, creating a surplus of honey in the world, thus depressing honey prices. With the strong position of our dollar foreign suppliers are capitalizing on our unfortunate situation, and are indeed enjoying a real bonanza for themselves by flooding our country with their honey at unbelievably low prices.

How does the domestic beekeeper and packer compete??? Quite simply, they can't. Foreign honey flows freely into our country with no restrictions.

The Government's price support program worked well for a number of years until the Government started buying honey in every increasing amounts, and giving it away in their various give-away program . . . statistics show that the amount of honey given away by the Government is equal to the amount of all retail sales in our country.

To make matters even worse, we are now faced with foreign countries (not just the ones across the waters, but countries right here in our own hemisphere) entering our marketplaces with packaged retail honey, as well as bulk, in ever increasing amounts with no Government restrictions, and under-cutting our prices with their cheap honey. Bolstered by the strong position of our dollar . . . they are certainly "cleaning up" while our entire honey industry goes down the tubes.

We need strict controls on the Government's give-away programs . . . and we need Government restrictions on imported honey, both packaged and bulk.

DENT, MN, *June 23, 1985.*

JOSEPH K. DOWLEY,
Chief Counsel, Ways and Means Subcommittee on Trade, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: My name is Robert W. Walkin, My address is R.R. 1, Dent, MN 56528, phone 218 758 2732.

I am a small commercial beekeeper and with the help of my family, we operate 800 colonies of honeybees. I am also secretary of our Lake Region Beekeepers Assoc. here in west central Minnesota, I am a member of the American Beekeeping Federation and the American Honey Producers.

We keep our bees on permanent locations throughout the year with one exception; sunflowers offer the possibility of a honey crop and farmers benefit from higher crop production, so we often move our bees in sunflowers during the bloom period.

Our problem with marketing is that there really isn't any. Awhile back I called one of the honey packers that we've sold to in the past (Hubbard Apiaries in Michigan), and when pressed, he said they really were not buying American honey. He

seemed embarrassed at what is happening. Another packer in Wisconsin that I phoned last week said they are buying good Argentine honey for 35–40¢ per pound.

Because beekeeping is so labor intensive, I do not believe there is any way that we can compete with a country like China. We desparately need some kind of protection from cheap foreign honey before any changes in price supports.

For American beekeeping to survive (and the pollination process that goes hand in hand with it), we need an investigation into what has upset the honey market.

Sincerely,

ROBERT W. WALKIN.

STATEMENT OF WESLEY WARING, MINNEAPOLIS, MN

I am a member of The American Beekeeping Federation, The American Honey Producers Association, and the Minnesota Honey Producers Association.

I'm a hobby beekeeper with considerable interest in Agriculture in general. When I see Honey being imported at a price substantially below the United States Government support price so that there is almost as much honey being imported as the Government is taking over in the loan program something is wrong in my opinion.

The government has been paying many beekeepers a support for several years, and now the proposal in Congress is to eliminate the price support entirely, all at once. Without a price support or some control over imports many beekeepers will be forced out of business.

Regardless of what happens in the Legislature I think it is time to proceed with an investigation of the import price of Honey.

It is time to start supporting our own United States industries again instead of going out of our way to help other countries at our farmers expense.

STATEMENT OF GARRY L. BALES, TRUSTEE, WILDLIFE HABITAT CHARITABLE TRUST, DEVINE, TX

I am a trustee for a new, non-profit conservation organization. Our number one goal is to improve management of public and privately owned land. Improving wildlife habitat is an intermediate stage and a means of achieving multiple use land management. We need bees in plant improvement work and to maintain high levels of productivity with many wild plants.

I became concerned about the future of our activities when our beekeeper associates informed me of their problems with USDA and unrestricted imports. I became alarmed when I realized the potential consequences of USDA's statements and actions.

Attempts to communicate with USDA regarding the beekeeping industry have been incredibly frustrating. During the past year I have obtained over 4,000 pages of documents and copies of letters under the Freedom of Information Act. Some of these documents clearly show:

1. USDA's extraordinary resistance to section 22.
2. USDA's unwillingness or incompetence to administer the honey support program in a cost effective manner.
3. USDA's attempts to accomplish objectives contradicting those Congress intended when the honey support bill was written.
4. Numerous attempts by USDA to get discretionary authority by discrediting honey support legislation.
5. More than 50 cases where USDA officials misrepresented facts and circumstances to members of Congress.

Over 3,000 pages of research reports and the testimony of some of the best scientists in the country will verify that USDA's opinion of the value of honey bees is absolutely wrong. A thriving beekeeping industry contributes immeasurabley to the balance of nature in our environment, to soil fertility, to wildlife food and to about 30 percent of what we eat. Without honey bees, yields of over 90 important foods would decline. Yield declines of each one percent result in consumer price increases of two and one-half percent.

USDA officials have written numerous letters to members of Congress that are critical of honey support legislation. These letters express erroneous "beliefs" pertaining to the beekeeping industry. I challenged USDA under the Freedom of Information Act to produce documented proof or their basis for these "beliefs". They could not produce even one fragment of supporting evidence for their position.

USDA's activities relating to the beekeeping industry violate the very spirit and purpose of our Constitution, "to establish justice and promote the general welfare."

As a private citizen I am outraged at USDA's attempts to subvert our representative form of government by misrepresenting facts and circumstances to our elected representatives.

USDA has made a $275 million mistake by opposing appeals for section 22 and attempting to make honey support legislation appear absurd. In addition to an inexcusable waste of money, we apparently also have a serious breach of trust. We are concerned about the intentions, competency and integrity of those who are administering the honey support program. Section 22 alone will not cure these problems.

If such a situation were to arise in private enterprise, the board of directors would make changes in management immediately. The solution to this problem is to change management. Dr. Milton Friedman has estimated that many services provided by our government can be provided by the private sector at a savings of 50 percent or more.

There is an alternative. Our non-profit trust can administer a beekeeper support program under existing legislation at a negligible cost to the government and without imposing tariffs or quotas. It may be implemented in addition to section 22 or instead of section 22.

Our proposed program meets four widely supported, bipartisan criteria and objectives for farm programs:

1. It would reduce the cost of this government support program 90 percent or more.

2. It provides farm income protection for beekeepers and other farmers that produce food, forage and fiber crops pollinated by honey bees.

3. It allows beekeepers to get their income from the market-place rather than the government.

4. It is a supply management, surplus control and market development plan.

Supply management.—We would need to be named trustees for all authority to import honey and given the government owned honey in storage. Honey would be imported only to meet market needs after domestic production had been sold. Imported honey would be offered by the Trust at the support price.

Surplus control.—We would form a Honey Marketing Board composed of industry leaders to restore order and stability in the market. Surplus honey in storage would be marketed at a rate and in ways that do not create problems for the industry.

Market development plan.—A professionally designed and directed consumer education and honey marketing program is needed to restore order, stability and confidence in this maligned, destabilized small industry. The Trust, under the guidance of the Honey Marketing Board, would help the beekeeping industry with marketing assistance and financial aid to extention and research programs.

A. Honey producers would be encouraged to market their own products. The Honey Marketing Board would serve as a market of last resort.

B. Processors would be encouraged to rapidly restructure their part of the market. Partial distribution of takeover honey may be provided as a short term incentive to accomplish this.

C. Retailers would be encouraged to cooperate with this plan by offering public relations and advertising opportunities with celebrities.

There should be no negative impacts on consumers. Retailers can be persuaded that it is commendable to hold the retail price unchanged and feature honey as a special. The public relations campaign will promote the concept that a thriving beekeeping industry is in everybody's best interest. It is good insurance for maintaining reasonable consumer prices on over 90 fruit and vegetable items, it is good for our environment and supports wildlife all for about $1.50 per person per year.

Over 90 percent of this program can be financed by the sale of surplus honey in storage and windfall profits on imported honey or tariffs if section 22 protection is achieved. Our challenge and our goal would be to manage the program at zerio cost to the government.

Every member of the 99th Congress has been informed about our low cost alternative to scrapping honey support legislation. Most well informed people realize that the beekeeping industry is worthy of continued support, especially when that support is fiscally responsible and consistent with Congressional efforts to reduce our federal deficit.

Management of the beekeeping support program will give us fund raising opportunities that will enable us to salvage important land rehabilitation technology discarded by USDA and the Department of Interior. One of our goals is do a cost effective land management demonstration project on overgrazed public land. This will be a prototype of the kind of multiple use land management that Congress has already mandated.

My advisors and colleagues are scientists and managers of exceptional talent with over 400 technical publications to our credit. We have no conflicts of interest with beekeepers or the beekeeping industry. The Department of Agriculture had declined our offer for cost effective management of the honey support program.

LOVELL, WY, *June 4, 1985.*

Hon. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIR: I would like to comment on Bill H.R. 2382 Beekeeper Preservation Act of 1985 and SR 1025 by Senator Pressler. These bills call for mandatory Section 22 investigation by the International Trade Commission to determine the impact of honey imports on the domestic market and to recommend appropriate actions.

As a beekeeper here in Wyoming, trying to make a living from the honey that we produce, we feel that this would be helpful to us. In the last two years honey imports have increased to a point where it is impossible to market our honey to domestic packers because they can import it cheaper than we can produce it.

Failure of the beekeepers in this country will not ony affect the beekeepers but all consumers through the lack of high quality honey and loss of bees for honey will also affect all crops that need pollinization.

I would ask that the hearings be scheduled as soon as possible.

Sincerely,

CLARENCE ZELLER.

[Letters indentical to the above were received from Gene B. Zeller and Von Zeller, Lovell, WY.]

LOVELL, WY, *June 12, 1985.*

Hon. JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR SIR: I would like to comment on Bill H.R. 2382 Beekeepers Preservation Act of 1985 and SR 1025 by Senator Pressler. These bills call for mandatory Section 22 investigation by the International Trade Commission to determine the impact of honey imports on the domestic market and to recommend appropriate actions.

I am employed in the bee business in Wyoming and my work depends on the fair market of honey that is produced here.

The bees are an essential part of the whole agriculture picture, failure of the beekeepers will affect not only many people employed by agriculture but consumers also. Imports may be cheaper right now, but they put many people out of work and will cause the rise of the cost of food in the future.

I would ask that the hearings be scheduled as soon as possible.

Sincerely,

SIDNEY ZELLER.

H.R. 2474

To continue until the close of September 30, 1988, the existing suspension of duties on color couplers and coupler intermediates used in the manufacture of photographic sensitive material

Department of Commerce

This is in response to your request for the views of this Department on H.R. 2474, a bill "To continue until the close of September 30, 1988, the existing suspension of duties on color couplers and coupler intermediates used in the manufacture of photographic sensitized material."

The Department of Commerce has no objection to enactment of H.R. 2474.

Enactment of H.R. 2474 would continue the current suspension of column 1 (MFN) duty for imports of color couplers and coupler intermediates used in the manufacture of photographic sensitized material. The current suspension expires on September 30, 1985. The column 2 rate of duty would not be affected by this legislation. In the absence of duty suspension, color couplers and coupler intermediates would enter the United States under Tariff Schedules of the United States (TSUS) items 402.36 through 406.63 and item 408.41, with duties ranging from 7.5 percent ad valorem to 28.6 percent ad valorem equivalent. The MFN duty on these items will be reduced in stages to a range of 5.8 percent ad valorem to 20 percent ad valorem equivalent on January 1, 1987, as a result of concessions made during the Tokyo Round of trade negotiations. Only a few items in TSUS items 402.36 through 406.63 and 408.41 are eligible for duty free treatment under the U.S. Generalized System of Preferences.

There is no domestic production of most of the products covered by H.R. 2474; one producer manufactures a limited range of products. A few domestic companies are capable of producing the entire range of products and may do so in the future if market conditions warrant.

The revenue loss from this bill cannot be accurately determined inasmuch as the affected products are among many contained in a range of TSUS categories. This bill would have no impact on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Statement of Biddle Sawyer Corp., Presented by Siegel, Mandell & Davidson

On behalf of our client, Biddle Sawyer Corporation, 2 Penn Plaza,. New York, New York 10121, this is submitted in response to Subcommittee on Trade Release No. 8 dated May 16, 1985 in support of the above-referenced bill. Our name, address and telephone number are as set forth in our letterhead. In summary, our statement urges passage of H.R. 2474 on the grounds that it simply continues an existing duty suspension dating back to 1977 for the photographic chemicals in question; that aside from "in-house" production and use of the chemicals by U.S. manufactures of photographic color print paper, there is no domestic industry producing like or competing products; and that our client has passed along, and will continue to pass along the duty saving resulting from duty-free treatment to its customers who manufacture finished photographic print paper, which should continue to result in lower consumer prices for the finished goods.

Item 907.10, TSUS, provides termporary duty-free treatment ending September 30, 1985 for "Cyclic organic chemical products in any physical form having a benzenoid, quinoid, or modified benzenoid structure (however provided for in items 402.36 through 406.83, part 1B, schedule 4) to be used in the manufacture of photographic color couplers" commonly referred to as color coupler intermediates. Item 907.12, TSUS, covers "Photographic color couplers (provided for in item 408.41, part IC,

schedule 4)". H.R. 2474 would continue these duty suspensions until September 30, 1988.

Bibble Sawyer Corp. is a major supplier of color coupler intermediates to the U.S. photographic trade (the name of its customer is considered business sensitive and is supplied to the Subcommittee as a confidential attachment). Because of the unavailability of domestic sources for these chemicals, for the past several years our client has obtained them from overseas suppliers.

The existing duty suspension dates back to P.L. 95-206 of December 12, 1977, which was extended by P.L. 96-609 of December 28, 1980 and again extended by P.L. 97-446 of January 12, 1983. As was noted by the Congress during consideration of the last extension, color coupler intermediates and color couplers are manfactured in the United States by only one producer of photographic goods (Kodak) for its own use in production of photographic color print paper; the other domestic producer of color print paper (3M) was not manufacturing the chemicals in question but was importing intermediates and finished couplers to satisfy its needs. (See H. Rep. 97-837 on H.R. 6867, 97th Cong., 2d Sess., at page 21, and Sen. Rept. 97-564 on H.R. 4566, 97th Cong., 2d Sess., at page 10.) Because of the absence of independent domestic production, the imported color coupler intermediates, etc., do not compete in the domestic market with any U.S.-produced products. Rather, imports are a necessary source of supplemental supply for domestic manufacturers of photographic material. Insofar as we are aware, the lack of domestic resources as it existed in 1982, and which prompted the last extension of the duty suspension, has not materially changed.

Through the years Biddle Sawyer has passed along the duty savings resulting from the suspension to its domestic customers. It is believed that this has resulted in lowered finished-product prices to consumers. Should the present duty suspension be extended, our client intends to continue to pass along the duty savings.

DUGAN & ROSEN,
New York, NY, June 25, 1985.

Hon. SAM M. GIBBONS
Chairman, Subcommittee on Trade, Committee of Ways and Means House of Representatives Washington, DC.

DEAR MR. CHAIRMAN: This letter is written on behalf of our client Bofors Nobel, Inc., of Muskegon, Michigan and Parsippany, New Jersey in support of the enactment of H.R. 2474 (Mr. Duncan): To continue until the close of September 30, 1988, the existing suspension of duties on color couplers and coupler intermediates used in the manufacture of photographic sensitive material.

Our client imports such products from Sweden. There are no known domestic producers of these products. As a consequence the end users of these products, and their customers, are paying an unnecessary higher price without any compensation therefrom.

Our client, therefore, respectfully requests that your Committee favorably report this Bill for enactment.

Very truly yours,

JOHN IRWIN DUGAN,
Counsel, Bofors Nobel, Inc.

CHEMDESIGN CORP.,
Fitchburg, MA, June 24, 1985.

JOSEPH K. DOWLEY, Esq.,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: Reference is made to the May 16, 1985, announcement by the Honorable Sam M. Gibbons (D. Fla.), Chairman, Subcommittee on Trade, Committee on Ways & Means, requesting written comments on certain tariff and trade bills.

ChemDesign Corporation, with headquarters and manufacturing facilities in Fitchburg, MA 01420, wishes to address and comment on H.R. 2474 which proposes to continue the existing suspension of duties on color couplers used in photographic materials, such legislation having been introduced by the Honorable John J. Duncan (R. Tenn).

It is the position of ChemDesign Corporation that, the color coupler commonly referred to as C-1, whose use is entirely relegated to diazotype and reprographic, and

not photographic processes, be exempted from H.R. 2474. The attached documentation is respectfully submitted in support of this position.

Sincerely yours,

RICHARD E. T. BROOKS,
Chairman and Chief Executive Officer.

Enclosures.

COUPLER C-1—PETITION FOR EXEMPTION FROM H.R. 2474

SUMMARY AND RECOMMENDATIONS

In January, 1985, with the start up of its manufacturing facilities in Fitchburg, MA, ChemDesign Corporation began the production and sale of the Coupler identified as C-1, offering the product generally and freely to the marketplace. As such ChemDesign became the only merchant producer of Coupler C-1 in the United States. Heretofore, the market had been fulfilled by manufacturers located in Europe and the Far East who enjoyed the benefit of being able to export their production into the U.S., duty exempt, as interpreted under the more recently enacted PL97-446 which otherwise would have required a levy of 19.4% ad valorem.

Since ChemDesign Corporation is now a bonafide U.S. producer and marketer of Coupler C-1, it respectfully requests that Coupler C-1 be exempted from H.R. 2474, the enactment of which without this modification would otherwise continue the duty exemption on Coupler C-1 through September 30, 1988. As a fledgling small and emerging new company, ChemDesign petitions this action to protect its existence, markets and employment posture enough restoration of duties which are already in existence as originally enacted by the U.S. Congress.

The sponsor of H.R. 2474, Eastman Kodak Company takes no objection to exemption C-1 from this bill as witness by the attached signed affidavit [1] from Eastman Kodak.

Coupler C-1 was planned to represent some 25% of the Corporation's initial sales and some 40% of its gross margins. As cited earlier, the current price level in the marketplace would suggest an erosion of some 50% of the projected first year gross margin revenues. Continued duty exemption for color gross margin revenues. Continued duty exemption for color Coupler C-1 could put at risk some 8-12 jobs in Fitchburg, MA. While a small number, it is dramatic when it is realized that a portion of the funding for the Fitchburg manufacturing site was based on Community Development Funds and a UDAG Grant.

DESCRIPTION OF COUPLER C-1

Names and synonyms

The synonyms, including the specific chemical terminology for Coupler C-1 are as follows: Coupler 517; Dioxy R-Salt, 6,7-Dihydroxynaphthalene-2-Sulfonic Acid, Sodium Salt.

Use

Coupler C-1 has been in use for many years as a key intermediate in diazotype imaging processes. Diazotype processes are used broadly by the reprographic industry for blue print, engineering, drafting and other applications.

Coupler C-1 is not a photographic coupler which are those generally referred to as those materials whose speed and developing techniques are based on silver-employing processes leading to full chromatic images. Diazotype images are monochromatic, slow in speed of development and are not employed in color photographic process or products.

Markets and value

The market for Coupler C-1 is relegated to the reprographics industry and spans some 14 companies who manufacture diazosensitive materials coated on paper or polymeric substrates for the use cited above.

The total U.S. market for Coupler C-1 is estimated to vary between 150,000 lbs to 200,000 lbs per year. At current selling prices of between $7.50 and $8.00/lb (net to supplier) the total value of the market is in the range of $1.0—1.6 Million.

However, with the strong U.S. Dollar and duty free status, the current price for C-1 represents and erosion of some 15.8% to 21.0% from its former more realistic level of $9.50/lb. This represents a manufacturers margin loss in the range of

[1] Attachment "A".

$0.225—$0.400 Million and an estimated loss in revenue to the U.S. Treasury of $0.204 to $0.272 Million because of the duty free status afforded C–1.

COLOR COUPLER DUTY SUSPENSION LEGISLATIVE HISTORY

The attached summary traces in synopsis form the legislative history of the duty exemption on photographic color couplers.

In essence, the basis for suspension was based on 3M's petition that insufficient capacity existed in the US to fulfill its requirements and led to the enactment of PL95–206 in 1977.

While 3M's basis was rational and compelling, the interpretation and implementation of PL95–206, extended by PL96–609 and currently PL97–446, has resulted in duties being suspended on not only photographic couplers but all imaging couplers including those used in reprography. It is ChemDesign's belief that it was not the Congress's intent to have its will so broadly applied. However, lacking objection to the contrary, as ChemDesign now pleads the case for Color Coupler C–1, the misapplication of the above cited legislation went unchallenged.

COLOR COUPLER TARIFF SUSPENSION

A. PL95–206

In 1977 PL95–206 [H.R. 1904], Dec. 12, 1977, was passed to amend Sub-part B of part 1 of the Appendix to the Tariff Schedules of the United States (19 USC 1202) to insert New Items:

907.10 Cylic organic chemical products in any physical form having a benzenoid, quinoid or modified benzenoid structure to be used in the manufacture of photographic color couplers.

907.12 Photographic color couplers,

suspending the duty of 3 (three) cents per pound plus 19% ad valorem, the above referenced products thus to be entered free of duty with no change until June 30, 1980. The enactment of this legislation was the result of an unopposed petition which would allow 3M Company to import such couplers or raw materials therefor duty free since no merchant U.S. producer of these products was then in existence.

B. PL96–609

On Dec. 28, 1980, PL96–609 [H.R. 5047] was enacted which extended the duty suspensions on items 907.10 and 907.12 through June 30, 1982, the basis for which continued to be the absence of a merchant U.S. producer of color couplers. The passage of this law was unopposed.

C. PL97–446

On Jan. 12, 1983 PL97–446 [H.R. 4566], under Section 131, extended the duty suspension for color couplers, Items 907.10 and 907.12 of The Appendix of The Tariff Schedules of The United States, through Sept. 30, 1985. The basis for extension remained unchanged from the original precept that no merchant U.S. producer of the couplers was in existence.

CHEMDESIGN CORPORATION

ChemDesign Corporation, a Massachusetts corporation chartered in January, 1982, having a manufacturing facility located in Fitchburg, MA is a producer of fine and specialty chemicals marketed primarily to the photographic, reprographic and electronics industries.

Among the products produced by ChemDesign in its Fitchburg facility is a chemical used in the reprographic/photographic industry called Coupler C–1 or, chemically 6,7-Dihyroxynaphthalene-2-Sulfonic Acid, Sodium Salt. This compound is used widely in the reprographics industry as a common starting material for color coupling with a wide range of diazo materials, the diazo chosen depending on color tint, substrate, and coated system desired.

Coupler C–1 was planned to represent some 25% of the Corporations initial sales and some 40% of its gross margins. As cited earlier, the current price level in the marketplace would suggest an erosion of some 50% of the projected first year gross margin revenues. Continued duty exemption for color coupler C–1 could put at risk some 8–12 jobs in Fitchburg, MA. While a small number, it is dramatic when it is realized that a portion of the funding for the Fitchburg manufacturing site was based on community development funds and a UDAG Grant.

Under terms of the UDAG ChemDesign is committed to the creation of 72 full time jobs over a four year period beginning September 1984 in this economically de-

pressed community. We have begun hiring under this commitment but without relief from color coupler C-1 duty suspension existing employment and new job commitments are severly threatened.

ATTACHMENT "A"

EASTMAN KODAK CO.,
Rochester, NY, June 19, 1985.

C. W. STEWART,
President, ChemDesign, Fitchburg, MA.

DEAR MR. STEWART: As discussed today by phone, we agree with your interpretation that the compound 6, 7-dihydroxy napthalene-2-sulfonic acid sodium salt should not be included in the category of color couplers and coupler intermediates used in the manufacture of sensitized photographic materials referred to in the miscellaneous tariff and trade bill H.R. 2474.

Please let me know if you have any questions.

Sincerely,

TOM HIATT,
Assistance Vice President Director, Public Affairs.

EASTMAN KODAK CO.,
Rochester, NY, June 7, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. DOWLEY: On May 16, 1985, the Honorable Sam M. Gibbons requested that comments be submitted to the House Subcommittee on Trade by parties interested in the recently filed miscellaneous tariff and trade bills.

Eastman Kodak Company is a 105-year-old manufacturer of consumer and professional photographic goods, information management products, health sciences products, chemicals, fibers, and plastics. As a producer of numerous color photographic products we have a vital interest in color couplers and coupler intermediates. Consequently, we offer the following comments in support of H.R. 2474, a bill to continue the existing suspension of duties on color couplers and coupler intermediates used in the manufacture of sensitized photographic material.

Color couplers are complex organic compounds designed specifically for incorporation into or use with sensitized photographic materials. Coupler intermediates are organic "building blocks" from which color couplers are ultimately made. During processing of the photographic materials, the couplers react to form various colors representing the original photographed image.

Eastman Kodak Company produces many color couplers and coupler intermediates for use in photographic products. However, we find that many compounds in the category of color couplers and coupler intermediates of future interest to Kodak are available only from sources outside of the United States as there currently are no domestic manufacturers. Thus, we must rely on importation of such compounds for at least a portion of our requirements.

Most of the relevant color couplers or coupler intermediates have been imported from Japan and Western Europe. However, in some instances, these compounds have been available only from Japan.

During 1983, Kodak imported about 153,000 pounds of compounds of the categories in question. The duty on that particular mix of compounds would have been about $110,000. In 1984, a different mix of compounds imported that year would have yielded a duty of about $154,000. While we do expect reasonable growth for product using these compounds, it is difficult at best to predict with any degree of accuracy what the particular mix or volume of such compounds might be at any point in the future. The reasons for such difficulty are numerous but primarily are related to continually changing technology (both product and manufacturing technology), a changing competitive situation, and (during the last four years) the effects of a strong dollar on domestic companies.

Continuation of duty-free status of color coupler and coupler intermediate imports will aid U.S. photographic companies in providing competitive products in the worldwide photographic market without adversely affecting domestic manufacturing. Foreign manufacturers will continue to be able to use color couplers and intermediates in the production of photographic materials and import the resultant materials into the U.S. without incurring the up to 18% duty imposed on those com-

pounds. However, if domestic manufacturers of sensitized photographic materials were to import the same compounds, they would be subject to up to 18% duty in the absence of continued duty suspension.

We support an extension of the duty suspension for photographic color couplers and coupler intermediates through September 30, 1988. If you have any questions, please call Mr. J. Wilson Malloy, Director, Federal Government Relations, in our Washington office, at 558-9216.

Sincerely,

TOM HIATT,
Assistant Vice President, Director, Public Relations.

H.R. 2506

To provide for waiver of the requirement that proof of actual use be furnished within 3 years after the date an article is entered, and for reliquidation of certain entries of tubular tin products.

U.S. International Trade Commission

Section-by-section analysis

The proposed legislation would instruct the Secretary of the Treasury to reliquidate, as free of duty under item 911.12 of the Appendix to the Tariff Schedules of the United States (TSUS) (in effect at the time of entry), four entries of tubular tin products imported through the port of New York in March 1979. This would enable Minemet, Inc., to obtain the duties previously paid by submitting a certificate of actual use (in this instance a remelt certificate) for the products to the U.S. Customs Service, at the original port of entry, within 120 days from the date of enactment of this Act. The waiver would be effective upon enactment.

Background

Description and uses.—Tin metal is a soft, crystalline metal, which is malleable at ordinary temperatures but becomes brittle when hot. The melting point of tin (232 degrees centigrade) is low relative to the melting points of other common metals. Tin metal is produced through the smelting of cassiterite (a common mineral, tin dioxide, the principal ore of tin) or tin concentrate in a batch operation. Typically, a period of ten to twelve hours is required to smelt a charge. When smelting is completed, the molten liquid is cast into slabs or ingots. These slabs or ingots then undergo a heat treating process in which tin is heated on an inclined hearth to a temperature slightly above the melting point of pure tin, but below the melting point of the impurities. As a result, the pure tin flows out leaving behind impurities such as iron and copper. The molten tin is then stirred and brought to a boil, through which more impurities are oxidized and skimmed off. After refining, the tin is cast into ingots for marketing in weights up to 100 pounds. After the material has been cast into ingots, it may be formed into such finished products as pipes and tubes, plates, sheets, wire, bars and rods. All such forms are referred to as primary tin metal. Over 90 percent of primary tin metal produced consists of ingots.

Historically, 20 to 30 percent of all tin metal produced has been used to make tinplate for the container market. Tinplate is a narrow-gauge steel sheet product possessing a very thin coating of tin on both sides. Soldered tin, which constitutes another 20 to 30 percent of all tin produced, is used in radiators, air conditioners, and electrical components. Another product, terneplate, is sheet covered with a tin-lead alloy on both sides. When alloyed with copper, tin is used to produce bronze; tin alloyed with copper and zinc can be used to produce brass. Brass and bronze are found in bearings, fittings, castings, stampings, and electrical components.

Purpose.—The legislation is apparently intended to resolve a long-standing problem for Minemet and the U.S. Customs Service concerning the proper tariff classification of the imported products and their eligibility for the then-existing duty suspension under TSUS item 911.12. The sponsor of this legislation has asserted that certain "tubular tin products", imported in March 1979 by Minemet Inc., were incorrectly classified and dutied under TSUS 622.40, a tariff provision for tin pipes and tubes carrying a 6 percent ad valorem rate of duty in 1979.[1] The sponsor is of the opinion that the articles in question should have been eligible for duty-free entry under item 911.12 of the Appendix to the TSUS, a temporary provision in effect at the time of entry, which afforded duty-free treatment to tin waste and scrap and certain unwrought articles provided a certificate of actual use (remelt certificate) were furnished within three years after the date an article had been entered.[2] Minemet contends that the remelt certificates were not furnished in a

[1] Source: telephone conversation with sponsor's staff.
[2] Text of temporary provisions is set forth in the appendix to this memorandum.

timely manner due to incorrect legal advice and to an omission by the appropriate Customs officer.[3] The company wishes to recover the amount of duty paid, amounting to $216,000, by submitting the remelt certificates to the Customs Service within 120 days after enactment of the proposed waiver. The articles in question were imported from Brazil, which had on March 1, 1979, lost eligibility for duty-free entry under the Generalized System of Preferences (GSP).[4]

The Customs Service has indicated to Minemet that legislative action is one way to remedy the situation and, although the Service has not taken a position on this legislation, did help draft the proposed language.[5]

In addition to the legislative remedy, the firm is also pursuing a judicial remedy. In March 1985, Minemet Inc., filed an action with the Court of International Trade seeking to reclassify the articles imported by Minemet from TSUS item 622.40 to TSUS item 622.02. Minemet's complaint argues that the articles it imported in March 1979 should not be considered pipes and tubes, but should have been classified by Customs as ingot, and thus free of duty. A ruling favorable to Minemet would result in the recovery of the duties paid on these articles. A resolution of the case may occur later this year.[6] This memorandum will therefore not discuss the appropriateness of Customs' classification.

Comparison with present law

Tariff treatment under the TSUS.—The Customs Service classified the subject products in TSUS item 622.40, pipes and tubes and blanks therefor of tin. The column 1 rate of duty [7] under this item in 1979 was 6 percent ad valorem, and the column 2 duty rate [8] was 45 percent ad valorem; the current column 1 duty rate is 3.3 percent ad valorem. Imports under TSUS item 622.40 were then eligible for duty-free entry under the Generalized System of Preferences (GSP) if the product of a beneficiary country other than Brazil (as of March 1, 1979), while today all GSP-eligible countries may claim duty-free entry for such articles. The least developed developing countries (LDDC) duty rate,[9] in effect since 1980, is 2.4 percent ad valorem. Such products from designated beneficiary countries are eligible, as of late 1983, for duty-free entry under the Caribbean Basin Economic Recovery Act (CBERA). Imports under TSUS item 622.02 have been unconditionally free of duty since its enactment.

---

[3] Source: telephone conversation with official of Minemet; information obtained from the Customs Service.

[4] The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

[5] Telephone conversation on May 23, 1985 with Mr. John Simpson, Director, Office of Regulations and Rulings, U.S. Customs Service.

[6] Telephone consersation on June 4, 1985 with Mr. Ed Bullock, General Attorney, Office of International Trade Litigation, U.S. Customs Service.

[7] The rates of duty in the column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or under the least developed developing countries (LDDC) rate of duty column.

[8] The rates of duty in the column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[9] The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the LDDC column for a particular item, the rate of duty in column 1 applies.

[Percent ad valorem]

TSUS item No.	Article description (abridged)	Pre-MTN col. 1 rate of duty[1]	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
	Unwrought tin (including ingot):										
622.02	Tin other than alloys of tin	Free	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	Free.
622.40	Pipes and tubes and blanks therefor, pipe and tube fittings, all the foregoing of tin.	6%	5.6%	5.1%	4.7%	4.7% 4.2%	3.8%	3.3%	2.9%	2.4	45%.

[1] Rate effective prior to Jan. 1, 1980.
[2] Rate not modified in the Tokyo round of the Multilateral Trade Negotiations.

Tariff treatment under the proposed Harmonized System (HS).—As set forth in the September 1984 draft converted U.S. tariff schedule issued by the Trade Policy Staff Committee, the following tabulation indicates the nomenclature and proposed duty rates for the subject articles under the H.S.

TARIFF TREATMENT UNDER THE PROPOSED HARMONIZED SYSTEM (HS)

Heading	Article description (abridged)	Rates of duty column 1 general
8001	Unwrought tin:	
8001.10.00	Tin, not alloyed	Free
8006.00.00	Tin tubes, pipes and tube or pipe fittings	2.4%

Structure of the domestic industry

The sole domestic tin smelter is located in Texas City, Texas, and is owned by Gulf Chemical & Metallurgical Corp., a subsidiary of Associated Metals and Minerals Corp. This firm, which produces primary tin from imported and domestic concentrates and from secondary tin-bearing materials, has an annual production capacity of 8,000 metric tons. In addition, a number of firms purchase domestic and imported tin ingots and remelt the material in order to produce finished products, principally tinplate and solder. Twenty-five of these firms consume approximately 60 percent of all primary tin purchased in the United States.

In 1984, approximately 200 employees were producing tin ore and primary metal.

Domestic production

U.S. production of primary tin has fluctuated from a low of 2,000 metric tons in 1981 to an estimated high of 4,000 metric tons in 1984 (table 1). Gulf Chemical has operated at less than 50 percent of capacity for much of this period due to weak demand for primary tin. U.S. production of tin has been historically low relative to U.S. consumption, due to limited domestic tin reserves and limited U.S. domestic smelting capacity.

U.S. imports

U.S. imports of primary tin declined from 45,982 metric tons ($766.2 million) in 1980 to 34,048 metric tons ($438.2 million) in 1983, since high prices for tin have forced end-users to substitute other materials such as aluminum and tin-free steels (table 1). Tin imports increased to 41,224 metric tons ($492 million) in 1984 as declining tin prices helped renew demand for tin.

U.S. exports

U.S. exports of primary tin metal increased from 595 metric tons (valued at $10.2 million) in 1980 to 5,769 metric tons ($84.5 million) in 1982, before declining to 1,429 metric tons ($14.4 million) in 1984 (table 1).

Reported U.S. consumption

Reported U.S. consumption of primary tin metal declined from 44,342 metric tons in 1980 to 34,301 metric tons in 1983, reflecting greater demand for lower-priced aluminum and tin-free steels for use in the container market (table 1). Primary tin con-

sumption recovered to 37,819 metric tons in 1984, as lower market prices stimulated renewed demand by end-users.

Effect on revenue

Enactment of this bill would cause a customs revenue loss of $216,000. This figure represents the amount of duty that Minemet paid on the articles in question, which it would be able to recover.

Technical comments

It should be noted that copies of previously submitted remelt certificates, made available to Commission staff members by the Customs Service, indicate that entry 00329494 was dated March 13 rather than March 16. If so, the date in the legislation should be changed. Second, it is suggested that the second instance of the word "products" be changed to "articles". For customs purposes, the word "product" is usually related to determinations of origin of imported articles, which are covered by customs entries.

TABLE 1.—PRIMARY TIN METAL: U.S. PRODUCTION, EXPORTS OF DOMESTIC MERCHANDISE, IMPORTS FOR CONSUMPTION, AND APPARENT CONSUMPTION, 1980–84

[Quantity in metric tons; value in thousands of dollars]

Year	U.S. production	Exports	Imports	Reported consumption	Ratio (percent) of imports to consumption [2]
			Quantity		
1980	3,000	595	45,982	44,342	79
1981	2,000	2,361	45,874	40,229	77
1982	3,500	5,769	27,939	36,194	68
1983	2,500	1,340	34,048	34,301	73
1984	[1] 4,000	1,429	41,224	37,819	79
			Value		
1980	([3])	10,194	766,182	([3])	([3])
1981	([3])	31,053	635,880	([3])	([3])
1982	([3])	84,454	363,329	([3])	([3])
1983	([3])	17,305	438,154	([3])	([3])
1984	([3])	14,409	492,030	([3])	([3])

[1] Estimated by U.S. Bureau of Mines.
[2] U.S. Bureau of Mines statistics.
[3] Not available.

Source: Compiled from official statistics of the U.S. Bureau of Mines.

Item	Articles	Rates of Duty[1] 1-a	1-b	2	Effective period
	Metal waste and scrap (provided for in part 2, schedule 6), except lead, zinc, and tungsten waste and scrap; unwrought metal (except copper, lead, zinc, and tungsten) in the form of pigs, ingots, or billets (a) which are defective or damaged, or have been produced from melted down metal waste and scrap for convenience in handling and transportation without sweetening, alloying, fluxing, or deliberate purifying, and (b) which cannot be commercially used without remanufacture; relaying or rerolling rails; and articles and metal (except articles of lead, of zinc, or of tungsten, and not including metal-bearing materials provided for in schedule 4 or in part 1 of schedule 6 and not including unwrought metal provided for in part 2 of schedule 6) to be used in remanufacture by melting or to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content:				
911.10	Cooper waste and scrap	Free	No change	No change	On or before 6/30/81
911.11	Articles of copper	Fee	No change	No change	On or before 6/30/81
911.12	Other	Free	Free	Free	On or before 6/30/81

[1] For explanation of rates in columns 1-a and 1-b, see headnote 5, part 2C, schedule 6.